

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 30692 of 2018(O&M)
DATE OF DECISION : 17.07.2019

Ravi Kumar ... Petitioner

versus

State of Punjab and Ors. ... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. G.S. Punia, Sr. Advocate with
Ms. Harveen Kaur, Advocate
for the petitioner.

Ms. Anu Chatrath, Sr. Advocate with
Ms. Ambika Sood, AAG Punjab.
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ARUN MONGA, J.

1. Petitioner seeks a mandamus directing the respondents to appoint him as Medical Laboratory Technologist by quashing the order dated 15.06.2018 Annexure P/12 passed by respondent No. 2 for certification of the experience certificates of candidates by checking the record of the concerned hospital about payment of salary.
2. Vide public notice/advertisement dated 26.07.2011 Annexure P/8, issued by respondent No. 2, applications were invited from eligible candidates, inter alia, to fill up 390 vacancies of Medical Laboratory Technicians. Following was the criteria notified for recruitment:

<i>S.No.</i>	<i>Particulars</i>	<i>Marks</i>	<i>Remarks</i>
1	Written test	80	-
2	Rural Background	5	Suspended as per orders of Hon'ble Punjab and Haryana High Court orders
3	Higher Qualification (B.Sc./M.Sc.	5	-

<i>S.No.</i>	<i>Particulars</i>	<i>Marks</i>	<i>Remarks</i>
4	Experience Government. NRHM/ Reputed Hospital (2 marks per year) Maximum 10 marks	10	-

Later, pursuant to judgment dated 04.09.2017 Annexure P/10 passed by the Hon'ble Supreme Court of India, the educational qualifications for appointment to these posts was corrected/changed to Matriculation with a diploma in Medical Laboratory Technology.

3. The petitioner applied for the post and inter alia submitted experience certificates as under :

- a. Certificate dated 06.02.2009 of experience from 01.07.2003 to 28.02.2009 issued by Indus Hospital, Mohali.*
- b. Certificate dated 15.12.2009 of experience from 01.03.2009 onwards issued by Ivy Diagnostic Laboratory, Sector 71, Mohali.*
- c. Certificate dated 06.06.2018 of experience from 01.01.2010 onwards issued by Sharma Clinic Laboratory, Dera Bassi ;*

4. Still, because of wrong and illegal parameters for checking of the record of salary payment laid down in the impugned letter dated 15.06.2018 Annexure P/12 issued by respondent No. 2, the petitioner was not given any marks/credit for his experience thereby downgrading his merit vis a vis other candidates and denying him the appointment.

5. The respondents pleaded the legality of the criteria laid down in letter dated 15.06.2018 Annexure P/12, asserted that in the absence of record of payment of salary by the concerned employers to the petitioner, he was not entitled to any marks/credit for experience on the basis of his experience certificates produced by him and that there was nothing wrong in the determination of the merit and selection of the candidates.

6. I have gone through the pleadings, the accompanying documents

and heard the learned counsel for the parties.

7. Admittedly, as per notified criteria, out of the maximum of 100 marks for determination of merit of the candidates, a maximum of 10 marks were earmarked for experience - Government/NRHM/Reputed Hospital (2 marks per year).

8. Vide impugned letter dated 15.06.2018 issued by respondent No. 2, it was laid down that for the post of Medical Laboratory Technician Grade- 2, the experience (certificate) granted by reputed hospital/establishment/laboratories was categorised as below:

(i)Hospital /establishment/laboratory should have well equipped laboratory etc.

(ii)Hospital /laboratory should have full time pathologist.

(iii)Hospital /laboratory should have conducted at least 20 different types of tests every day.

It was further mentioned in the impugned letter that the experience of the candidates can only be certified after checking the pay record of the candidates; but if the reputed hospital/organization will not allow to check the pay record, then the experience report of the candidate will be sent nil and that the verification reports should be sent in sealed envelope.

9. In my considered opinion, the aforesaid criteria is quite fair and reasonable. The checking of the employer's pay record was/is an effective method to identify, discard and/or otherwise appropriately deal with any bogus experience certificates and to prevent unscrupulous and undeserving candidate from usurping the legitimate claim of more deserving other candidates with genuine credentials.

10. Petitioner has asserted, inter alia, that private hospitals and private laboratories are not maintaining record beyond prescribed period(sic record) as per their policy. Obviously, no record of payment of salary for the relevant

period to the petitioner was produced before/made available to the respondents.

Any such record, policy or affidavit of concerned person of the named private hospitals/laboratory or any bank account of the petitioner showing receipt of any salary from the concerned employers has not been produced even before this Court in the case. Firstly, it seems difficult to believe that there would be no record available with any of the named three organizations about the employment of and payment of salary to the petitioner as claimed by him. In the normal course, the salary would be paid by such institutions to their employees through bank. Such Bank record could be but has not been produced. In my opinion, the learned counsel for the respondents is right in the contention that in the absence of satisfactory proof of petitioner's employment and experience as claimed by him, the respondents acted only fairly and in a reasonable manner in not giving him any credit/marks for the certificates produced by him to support his claim of experience. In any case, in the facts and circumstance of the case, it appears that there was nothing so wrong or unfair in the respondent's action, as to call for inference of this Court in exercise of its jurisdiction under Article 226 of the Constitution of India.

11. As a result, the petition is dismissed.

(ARUN MONGA)
JUDGE

July 17, 2019
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| 1. Whether speaking/ reasoned: | Yes/ No |
| 2. Whether reportable: | Yes/ No |