

CWP-2349-2018 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-2349-2018 (O&M)
Date of decision : 23.07.2019

Narender Dahiya

... Petitioner(s)

Versus

Pt. B.D. Sharma University of Health Sciences, Rohtak
and another

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Tribhuvan Dahiya, Advocate for the petitioner.

Mr. Sanjiv Kumar Aggarwal, Advocate
for the respondent(s)/University.

AMIT RAWAL, J. (ORAL)

Challenge in the present writ petition is to the decision dated 24.01.2018 (Annexure P-8), whereby the petitioner has been declared ineligible for the post of Assistant Professor, Medical, Blood Bank in the Department of Blood Transfusion.

As per averments in the writ petition, the respondents-University caused an advertisement of February 2017, for filling up the aforesaid post, having fixing the following essential qualifications:-

<i>Post</i>	<i>Qualifications</i>	<i>Experience</i>
<i>Teacher (Assistant Professor -Medical)</i>	<i>1. A basic University qualification included in the scheduled to Indian Medical Council Act, 1956 (102 of 1956) 2. MD/MS or equivalent post-graduate qualification recognized by the Medical Council of India in the subject concerned.</i>	<i>Three years teaching experience in the specialty concerned in a recognized medical College as Resident/Registrar/Demonstrator/Tutor out of which one year should be after post-graduation qualification</i>

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Petitioner, being fully eligible, applied for the aforesaid post under SC Category, as he had done Masters/MD (Pathology) and three years' teaching experience of post-MD in Department of Pathology. Degree of M.D. (Pathology), according to averments in the writ petition, has been considered equivalent to a degree of MD (Immuno Haematology or Blood Transfusion). The petitioner is though MBBS and MD (Pathology) and awarded degree of MBBS in March 1998 and degree of MD (Pathology) in May, 2009 and as per Certificate dated 24.12.2013 (Annexure P-3), the petitioner has three years experience as Demonstrator after post-graduation in the Department of Pathology of the respondent-University from 26.08.2009 to 26.08.2012.

Mr. Dahiya, learned counsel appearing on behalf of the petitioner submitted that in view of process of seeking appointment on the same post, the respondent considered the name of Dr. Richa and Dr. Nisha Sharma, having identical/similar qualifications, experience, and declared eligible and interviewed, in pursuant to advertisement No.03/2016, thus, action of the respondent-University is wholly fallacious and erroneous.

Mr. S.K. Aggarwal, learned counsel appearing on behalf of the respondents submitted that the petitioner does not have essential qualification of teaching and therefore, rightly so, rejected.

It was next contended that selection process of 2016 advertisement is under challenge before this Court, in CWP No.25556 of 2016, thus, urges this Court for dismissal of the present writ petition.

I have heard learned counsel for parties, appraised paper book and of the view that the contentions of Mr. Aggarwal, with regard to challenge to the aforementioned selection is no longer subsist, in view of

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the decision dated 07.03.2019, whereby the aforesaid writ petition along with other connected petitions, have already been dismissed.

It would be apt to reproduce categoric averments in para No.10 of the writ petition and corresponding para No.10 of the written statement, which reads as under:-

“Para 10 of the Writ Petition

10 That it needs to be mentioned here that MD (Pathology) has always been considered as the requisite qualification for faculty in the Department of Blood Transfusion by the respondent University. Pathology includes blood transfusion. Immunology and blood transfusion are also a sub aspect/part of pathology like Hematology, cytopathology and histopathology etc. That is the reason, the faculty in the Department, namely, Dr. P.K. Sehgal, Senior Professor & Head of the Department (now retired), is MD (Pathology). The other two faculty members, namely, Dr. Bimla Rathee and Dr. Rama Goyal, are also MD (Pathology) and have been working on deputation from the Department of Health, Haryana. A copy of the status of faculty of the Department of Blood Transfusion in the respondent University as downloaded from its website <http://pgimsrohtak.nic.in> on 28.01.2018 is attached here with a Annexure P-9. Besides till a few years back the Department was a part of the Department of Pathology in the respondent University. Last year also the respondents issued advertisement No.UHSR/Rectt./03/2016 inviting the applications for two general category posts of Assistant Professor in Blood Transfusion Department with identical qualification as are required vide the aforesaid advertisement (p/4). And candidates having MD (Pathology) with teaching experience as Resident/Registrar/Demonstrator/Tutor in the Pathology Department (Dr. Richa and Dr. Nisha Sharma,) were declared eligible and interviewed by the respondents.

The advertisement 03/2016 is attached herewith as Annexure P/10.

Para 10 of the Written Statement

10. That with respect to the contents of Para No.10 of the petition that it is submitted that Dr. Bimla Rathee is working as Assistant Blood Transfusion Officer (on deputation) in PGIMS, Rohtak. Both were applicants for the post of Assistant Professor in Blood Transfusion and found ineligible by the Scrutiny Committee for the same post due to lack of experience as Senior Resident/Demonstrator/Registrar/Tutor in the concerned specialty. Further vide advertisement No.03/2016, 02 (GC) posts had been advertise out of 23 candidates, 11 were absent, 03 were not eligible and 09 candidates had appeared for interview held on 08.12.2016 for the post of Assistant Professor in Blood Transfusion, PGIMS, Rohtak. As per synopsis prepared by the scrutiny Committee, the candidates having MD in Pathology had been considered as eligible for the said post and the same is annexed herewith as Annexure R-3. 02 candidates were selected for the post. However, the result of the candidates was withheld due to CWP No.25556 of 2016 titled as Sanjay Kumar V/s State of Haryana".

On perusal of the aforementioned averments, the respondents have not denied the eligibility of the similarly situated persons, having the MD in Pathology and certificate of Demonstrator, to be eligible for consideration to the aforesaid post.

In this view of the matter, the decision of the respondents is wholly atrocious, fallacious and cannot stand the touch-stone of alleged reasonability and justification, given by the Department, for the expression given 'not only teacher/Demonstrator'. Accordingly, the impugned letter dated 24.01.2018 (Annexure P-8) is hereby set aside and the respondents are

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directed to consider the name of the petitioner for the aforesaid post as, according to the submissions of Mr. Aggarwal, no selection in pursuant to the aforesaid advertisement, has been undertaken. The respondents shall initiate the process of interview as the petitioner is the sole applicant.

With the aforesaid observations, the present writ petition is allowed.

23.07.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned	Yes/ No
Whether Reportable	Yes/ No