

**104 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP-1521-2021(O&M)
Date of Decision:04.03.2021**

Gurinder Singh

..... Petitioner

versus

State of Punjab and others

..... Respondents

**CORAM : HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present: Mr. Ravinder Singh Rawal, Advocate for the petitioner.

TEJINDER SINGH DHINDSA, J. (ORAL)

This case has been taken up through Video Conferencing via Webex facility in the light of Pandemic Covid-19 situation and as per instructions.

Petitioner seeks a mandamus for directing the respondent-authorities to consider his claim for appointment to the post of Pharmacist (Pharmacy Officer) pursuant to a recruitment process that had been initiated by the Directorate, Health and Family Welfare, State of Punjab vide memo dated 04.08.2020 at Annexure P-1.

The precise case set up on behalf of the petitioner is that he had applied for the post in question against the SC (R&O) category and having participated in a written examination had secured 47 marks and accordingly in the provisional merit list of candidates his name figured at serial No.259. On the other hand candidates who had also applied in the same very category i.e. SC (R&O) and who secured lesser marks in the written

examination and whose names appear at serial Nos. 371, 374 and 376 in the provisional merit list, their names figure in the final select list. Counsel urges that even though he is not in possession of such select list at the moment but he has specific instructions from the petitioner to make such assertion. It has further been argued that after declaration of the result, counselling exercise had been conducted in which the petitioner had appeared on 22.10.2020 but since he did not have all the requisite documents he had been orally granted one day's time. Thereafter on 24.10.2020 he had again appeared before the concerned committee and had submitted the requisite documents reflecting fulfilment of the essential conditions/qualifications for the post and inspite thereof name of the petitioner does not figure in the select list. It is vehemently argued that the action of the respondent-authorities in ignoring the candidature of the petitioner and on the other hand selecting candidates of the same very category i.e. SC (R&O) but who had secured an inferior merit position is violative of Articles 14 and 16 of the Constitution of India.

Counsel has been heard at length and pleadings on record have been perused.

It is by now well settled that the cut off date by reference to which the eligibility requirement must be satisfied by a candidate seeking public employment is the date appointed by the rules and if not, then, such date as may be appointed for the purpose in the advertisement calling for applications and even if there be no such date fixed in the advertisement then, the eligibility would be with reference to the last date by which the applications have to be received by the recruitment authority/agency. A

reference in this regard may be made to the judgment of the Apex Court in the case of **Bhupinder Pal Singh and others vs. State of Punjab, 2000 (2) SCT 826.**

It is against such dictum as laid down that the claim of the present petitioner would need to be examined.

The public notice inviting applications for the post of Pharmacist (Pharmacy Officer) stands appended at Annexure P-1. Total number of posts available were 482 and out of which 48 posts were reserved for the SC (R&O) category. The essential basic and provisional qualifications prescribed for the post in the public notice were in the following terms:-

- 1. Should have passed Senior Secondary Part-II Examination with Science or its equivalent from a recognized University or Institution.*
- 2. Should possess a degree of Bachelor of Pharmacy from a recognised University or institution.*
- 3. Should have passed the three months practical training in an institution approved by the Pharmacy Council of India set up under the Pharmacy Act, 1948; and*
- 4. Should be registered as Pharmacist with the Punjab Pharmacy Council set up under the Pharmacy Act, 1948.*

The criteria of recruitment disclosed was a written examination comprised of 90 marks and 10 marks towards experience with 01 mark to be assigned towards each year of experience to such candidates who are working in the Department of Health on regular, contract or outsourcing basis under any programme.

Even though the document appended along with the petition at

Annexure P-1 does not disclose the closing date for submission of application forms, yet clause 8 of the notice clearly recites as follows:-

“8. The qualification of candidates should be prior to the last date of filling the applications.”

Concededly the counselling exercise in the present case had been conducted in the month of October, 2020. The written examination obviously was conducted prior thereto. It goes without saying that the closing date for submission of application forms had to be even prior to the written examination.

As per notice a candidate was to possess a degree of Bachelor of Pharmacy from a recognised University or Institution and should also have been registered as a Pharmacist with the Punjab Pharmacy Council set up under the Pharmacy Act, 1948. These were basic and essential professional qualifications.

As per dictum laid down by the Apex Court in **Bhupinder Pal Singh's case (Supra)** such essential qualifications ought to have been possessed by the petitioner prior to the closing date of receipt of application forms.

Petitioner is relying upon the documents at Annexures P-7 and P-8 which would clearly reveal that the essential qualifications of a degree of Bachelor of Pharmacy as also registration with the Punjab State Pharmacy Council was done only in October, 2020 i.e. much after the relevant date to be reckoned for purposes of eligibility.

Under such circumstances this Court does not find any infirmity in the action of the respondent-authorities in not treating the petitioner to be

an eligible candidate for the post in question.

At this stage counsel raises a submission that the petitioner is a victim of circumstances on account of the prevailing Covid pandemic. He submits that the result of the petitioner was declared belatedly and consequently even the registration with the Punjab Pharmacy Council got delayed and for which the petitioner ought not to be penalised.

Even such submission is wholly misplaced. The candidature of the petitioner has to be treated at par with all other candidates who were also facing the wrath of the Covid pandemic. Counsel has not adverted to any document/corrigendum issued by the respondent-authorities in terms of which the closing date for receipt of applications had been extended. Even a plea of discrimination has not been raised in the petition to assert that certain other candidates who had applied pursuant to the same very recruitment process, their candidature has been accepted by treating their qualifications as valid even though acquired after the last date of receipt of application forms.

For the reasons recorded above this Court does not find any merit in the instant petition.

Dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

04.03. 2021
sunita

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No