

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

207 - CWP No.19533 of 2020 (O&M)

Date of Decision: 12.01.2021

Amit Sharma

... Petitioner

VS.

State of Punjab & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE GIRISH AGNIHOTRI

Present: Mr. Navjot Singh, Advocate for the petitioner

Mr. Avinit Avasthi, AAG Punjab

Mr. Naresh Kumar, Advocate for respondent No.3

GIRISH AGNIHOTRI, J. (Oral)

The matter has been taken up through video conferencing on account of restrictions due to outbreak of COVID-19 pandemic.

Petitioner-Amit Sharma, stated to be aged 42 years, has filed the present petition *inter alia* with a prayer to direct the respondent No.3 to award 10 marks to him for 10 years of experience on post of Pharmacy officer on contractual basis and compile the merit list accordingly, with a further prayer to restrain the respondent University from notifying the final selection list or issuing appointment letters to the candidates who may be selected for the post of Pharmacy Officer in the present recruitment process or to direct the respondent University to provisionally accept his experience certificate.

Record shows that while issuing notice of motion in this case on 18.11.2020, the following detailed order was passed:-

“Learned counsel for the petitioner based on pleadings submits that the petitioner had participated in the recruitment process for the post of Pharmacy Officer in Health and Family Welfare Department, Punjab. It is submitted by learned counsel

that there are 188 posts meant for general category. It is also submitted that the written examination was for maximum of 90 marks. The petitioner had secured 36 marks as is evident from Provisional Merit List (Annexure P4). Learned counsel then refers to the extract of the Provisional Result (Annexure P3) to show that the cut off was at 42 marks as the last candidate secured 42 marks. Learned counsel also refers to letter written by Director, Health and Family Welfare Punjab to the Vice Chancellor, Baba Farid University of Health Sciences, Faridkot (Annexure P-1) and further refers to the Annexures to show that in addition to the 90 marks for written examination, 10 marks were for experience (1 mark for 1 year experience). Learned counsel has drawn attention of this Court to the experience certificate dated 15.10.2020 (Annexure P-2), wherein it has been certified that the petitioner was working as Rural Pharmacist at Subsidiary Health Centre Village Kukkar Pind, District Jalandhar, Punjab, from 01.05.2011 to till date on contractual basis. Learned counsel, therefore, based on the above documents and other submissions, submits that there is complete error in compilation of the result as in case, 10 marks are given to the petitioner, he would get 46 marks and thus, would be within the list of selected candidates.

Notice of motion.

On the asking of the Court, Mr. Ayush Sarna, Asstt. A.G., Punjab, who is appearing through video conferencing, accepts notice on behalf of respondent-State.

In the meantime, the respondents are directed to examine the above noted contention especially experience certificate (Annexure P-2). In the event that petitioner is found entitled to the grant of 10 marks on account of experience, necessary correction and further steps to issue formal order of appointment be taken. If however, there is any other lawful reason for not granting him appointment, the detailed affidavit of Officer not below the rank of Director Health and Family Welfare and

Registrar, Baba Farid University of Health Sciences, Faridkot, be filed within two weeks from today.

Let the above exercise be conducted and advance copy be given to counsel for the petitioner a week prior to the date fixed.

List on 09.12.2020.”

A perusal of the order dated 18.11.2020 would show that respondents were directed to examine the certificates appended by the petitioner along with his application for grant of 10 marks under the head ‘experience’. A direction was given as on 18.11.2020 to the respondents to examine the contention especially the experience certificate (P2). Thereafter on the request of counsel for the State, the case was adjourned on 09.12.2020 to 12.01.2021 i.e. today.

Today, on the resumed hearing the case, through *whatsapp*, learned State counsel has forwarded a copy of reply filed by way of affidavit of Gurinder Bir Singh, Director Health, Punjab dated 08.01.2021. In this reply, it has been, *inter alia*, submitted that keeping in view the menace of spread of COVID-19 pandemic, the State of Punjab accorded the sanction to fill the various vacant posts under the Department of Health & Family Welfare, Punjab. Accordingly, 482 posts of Pharmacists were sanctioned. It is mentioned in para 4 of the preliminary submissions that vide notification/order (R1) dated 13.07.2020, recruitment of Group A, B, C & D posts was ordered/decided to be done by Baba Farid University of Health Sciences, Faridkot – respondent No.3. It is averred in the reply that respondent No.3-University was given the authority to conduct recruitment to various posts including the post in question i.e. Pharmacist/Pharmacy Officer.

A perusal of reply, with specific reference to para 5 of its preliminary submissions, would only show that out of two certificates: one

Parishad, Jalandhar and the other dated 15.10.2020 issued by Resident Medical Officer, Subsidiary Health Centre, Heran, Jalandhar, only one certificate has been considered. It is also relevant to notice here that the first certificate is of experience from 01.05.2011 to 15.10.2020 whereas the second one certifies that the petitioner worked at the Subsidiary Health Centre, Heran, Jalandhar from 04.01.2010 to 30.04.2011. The latter certificate is admittedly again of more than one year and that too of working as Rural Pharmacist at Subsidiary Health Centre, Heran, Jalandhar. At this stage, it is relevant to reproduce the criteria of recruitment under the advertisement:-

“Criteria of recruitment:-

1. Written examination

(Baba Farid University of Health Sciences, Faridkot) 90 marks

2. Experience (1 year = 1 mark) 10 marks

(Marks of experience will be given to those candidate who are working in the Department of Health on Regular, Contract or Outsource basis in any programme)”

Thus, this Court is of the considered view that the petitioner does fulfill the required experience under the clause of experience for award of 10 marks. The authorities have fallen to error in taking a decision in not awarding 10 marks to the petitioner. Reference can be made to para 5 of the preliminary submissions.

It is apparent that the authorities have only taken into consideration the first certificate dated 15.10.2020 issued by Dy. Chief Executive Officer, Zila Parishad, Jalandhar and have totally lost sight of the second certificate issued by RMO, Subsidiary Health Centre, Heran, Jalandhar.

At this stage, Mr. Naresh Kumar, Advocate appears for respondent No.3-University. He tenders apology on behalf of respondent No.3 in not filing its reply in this case till date. He, however, makes an oral submission that in fact as per the internal arrangement between the respondents, the written test was to be conducted by respondent No.3 whereas the awarding of 10 marks was to be done by respondents No.1&2.

In view of the above, the writ petition is allowed with the following directions:-

- (i) the respondents are directed to consider the case of the petitioner for award of 10 marks on account of second certificate dated 15.10.2020 issued by RMO, Subsidiary Health Centre, Heran, Jalandhar.
- (ii) respondent No.3 as well as respondents No.1&2 are directed to *inter se* resolve the issue and complete the exercise of awarding 10 marks and issue formal instructions to the competent authority.
- (iii) let the needful be done by the respondents within a period of 10 days from the date of receipt of certified copy of this order.
- (iv) Respondents No.1&2 would further issue formal orders and allow the petitioner to join within 10 days thereof.

So ordered.

12.01.2021

vishal shonkar

1. Whether speaking/reasoned?
2. Whether reportable?

(Girish Agnihotri)
Judge

Yes/No
Yes/No