

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

LPA No. 380 of 2021 (O&M)

Date of Decision: 13.12.2022

**Director, Health & Family Welfare, Punjab, Parivar Kalyan Bhawan,
Sector 34-A, Chandigarh and another**

.....Appellants

Vs.

Amit Sharma and another

.....Respondents

**CORAM: HON'BLE MR. JUSTICE G.S. SANDHAWALIA
HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN**

Present: Mr. Rohit Ahuja, D.A.G., Punjab

None for respondent no. 1.

Mr. Naresh Kumar, Advocate,
for respondent no. 2.

G.S.SANDHAWALIA, J. (ORAL)

The present Letters Patent Appeal appeal has been preferred against the order dated 12.01.2021, passed by the learned Single Judge, whereby the Civil Writ Petition No. 19533-2020, filed by Amit Sharma (respondent no. 1 herein) has been allowed, in which directions have been issued to consider the case of the writ petitioner for awarding of 10 marks on account of second certificate, dated 15.10.2020, (Annexure P-2) produced by him and issued by RMO, Subsidiary Health Centre, Heran, Jalandhar.

Learned counsel for the appellants-State submits that the learned Single Judge has accepted the arguments raised by counsel for the the writ petitioner that the said certificate had been wrongly ignored and if

the weightage of the same is given, he would come within the zone of consideration.

He pointed out that a specific objection was taken that the experience certificate had to be of those candidates who are working in the Department of Health on Regular, Contract or Outsource basis in any programme. However, the learned Single Judge has issued a direction to consider the claim of the writ petitioner for the purpose of experience which is not issued by the Health Department but by the Department of Rural Development and Panchayats (Annexure P-2). It is also submitted that the said condition was part of the advertisement in question dated 04.08.2020 (Annexure P-1), wherein 482 posts of the Pharmacist (Pharmacy Officer) have been advertised. It is accordingly contended that the said clause has not been challenged at any point of time, the directions could not have been issued contrary to the offer for applying as such which was duly accepted.

The relevant clause of the advertisement reads as under:-

“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 Department of Health on Regular, Contract or Outsource basis in any programme)”

We have gone through the written statement as such wherein also a specific plea has been taken that the experience certificate was not of the Department of Health, Punjab, as required under Para-4 (c) of the

notification dated 13.07.2020 (Annexure R-1/T) which had been issued by the Government of Punjab, Health & Family Welfare, for filling up the vacant posts.

The writ petitioner chose not to contest the present appeal and has not put in an appearance.

While issuing notice of motion, a co-ordinate Bench as such on 09.04.2021 had stayed the operation of the impugned order though keeping one seat vacant till the next date of hearing.

As per the office report, service is complete.

In such circumstance, keeping in view the fact that in the advertisement it has clearly been mentioned that the experience certificate has to be from the Department of Health and Family Welfare, Punjab, which the writ petitioner does not have, we are of the considered opinion that this fact escaped of the notice of learned Single Judge. The same was the conditional requirement and the certificates which the writ petitioner possess, were not issued by the Department of Health and Family Welfare but by Deputy Chief Executive Officer, Zila Parishad, Jalandhar and by the RMO, Subsidiary Health Centre, Heran, Jalandhar.

In such circumstance, the benefit could not be granted to the writ petitioner and therefore he does not fall within the zone of consideration.

Resultantly, the present appeal is allowed and the order/judgment passed by the learned Single Judge, dated 12.01.2021, is hereby set aside.

Any pending miscellaneous application, if any, also stand disposed of.

(G.S. SANDHAWALIA)
JUDGE

December 13, 2022
nitin

(HARPREET KAUR JEEWAN)
JUDGE

Whether Speaking	Yes
Whether Reportable	No