

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

CWP-15315-2019 (O&M)

Date of decision: May 18, 2022

Amit Singh and another

....Petitioners

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. R.A. Sheoran, Advocate for the petitioners.

Mr. R.K.S. Brar, Additional AG Haryana.

Mr. Govind Tanwar, Advocate for
Mr. Kanwal Goyal, Advocate for respondent No.3-Commission.

ARUN MONGA, J. (ORAL)

Petitioners are in second round of *lis* before this Court, *inter alia*, seeking issuance of a writ in the nature of Certiorari for quashing impugned order dated 05.04.2019 (Annexure P-6) passed by respondent No.3-Haryana Public Service Commission. Thereby claim/ representation of the petitioners seeking registration of degrees/ certificates was rejected.

Further prayer has been made for directing respondent No.2-Registrar, Veterinary Council, Haryana to register the B.V. Sc. & A.H. degrees of the petitioners and grant the license of Veterinary practitioner to the petitioners w.e.f. the date of speaking order dated 25.05.2017 (Annexure P-9), whereby case of the petitioners was kept pending by respondent No.2 on the ground that as and when the Veterinary Council of India recommends their names, their degrees would be registered. A direction has also been sought for appointment of the petitioners on the post of Veterinary Surgeon

advertised by respondent No.3 vide advertisement No.1(1) dated 02.05.2017 (Annexure P-2).

2. Factual narrative first. Pursuant to an advertisement No.1(1) dated 02.05.2017, petitioners applied online for the post of Veterinary Surgeon under SC category, took the written examination and were subsequently called for the interview. As a precursor to interview, respondent No.3 sought hard copies of their documents along with online application form which were supplied.

2.1 Respondent No.3 then raised objection that the petitioners do not possess the requisite qualification i.e. Registered as Veterinary Practitioner with Haryana Veterinary Council or with any Veterinary Council in India or with Indian Veterinary Council, as required under the Indian Veterinary Council Act, 1984, as on the closing date i.e. 01.6.2017. Last opportunity was granted to do so by 27.08.2019.

2.2 Petitioners then preferred CWP-21170-2018 wherein vide an order dated 24.08.2018 (Annexure P-5 Colly), respondent No.2 was asked to register degrees of the petitioners provisionally. Petitioners got the degree registered provisionally from respondent No.2 and submitted the same before respondent No.3 before 27.08.2019.

2.3 During pendency of said writ proceedings, Veterinary Council of India, pursuant to an order dated 20.09.2018 passed by the Delhi High Court in WP(C)-4786-2017 held that the degrees of the petitioners are valid for all purposes. In the premise, this Court disposed of earlier CWP-21170-2018 filed by the petitioners with directions to respondent No.3 to decide the matter afresh and the decision be conveyed to the petitioners within six

weeks from the final order. In compliance with the same, respondent No.3 passed the impugned order dated 05.04.2019 (Annexure P-6). It has been held that petitioners were not registered as Veterinary Practitioner with Haryana Veterinary Council or with any Veterinary Council in India or with Indian Veterinary Council as on the closing date of the advertised post i.e. 01.06.2017, and therefore, their candidature was rejected. Hence the second foray of instant writ proceedings.

3. I have heard the competing contentions of learned counsel for the parties and perused the record.

4. As regards the petitioners having applied for registration with the Veterinary Council, it is not disputed that they had applied prior to the cut-off date (01.06.2017) requiring them to submit their registration certificates. For better appreciation of what has been contended by learned counsel for the petitioners, relevant Para-9 of the writ petition is reproduced herein below:-

“9. That the degree of petitioners held valid for all purposes by High Court and VCI. Thus, it is settled law that the valid degree would relate back from the date of degree. The petitioners filed the application to respondent No.2 to register the degree of petitioner and to grant the Veterinary License prior to the above said advertised post but the respondent No.2 denied the same on the ground that the college from which the petitioners obtained the degree is not recognized by VCI. Then the petitioners filed CWP-160-2017 on 09.01.2017 and the same was disposed of with the direction to respondent No.2 to take decision as per the Supreme Court order and pass a speaking order and intimate it to the petitioners. It is worth mention here that Hon’ble Supreme Court held that the degree given by Rajasthan University of Veterinary & Animal Science is valid for all purposes because the University is entered in the Ist schedule of VCI Act. Copy of the order dated 16.05.2017 which is prior to the last date of submission of the above said post i.e. 01.06.2017 attached as Annexure P-8.”

The contents of aforesaid para remain uncontroverted by the

Veterinary Council in its return filed vide affidavit dated 14.10.2019,

wherein, it is not denied that the petitioners had indeed applied for registration prior to the cut-off date. Perusal of the affidavit filed by the Veterinary Council would reveal that on one hand, it does not dispute the fact that the petitioners had applied for registration prior to the cut-off date while on the other hand, it merely states that pursuant to the order dated 24.08.2018, petitioners have been issued the requisite registration certificates (Annexures R-2/2 and R-2/3).

5. The other return filed by respondent No.3-HPSC has given following response to the corresponding para-9 of the writ petition:-

“9. That contents of para no. 9 of the writ petition are absolutely wrong and hence denied. As submitted earlier, the candidature of petitioners cannot be considered as they do not possess the essential qualification of being registered with the Veterinary Council prior to the cut-off date. Consequently, the candidature of petitioners was rightly rejected at the time of scrutiny of documents, vide letter dated 16.08.2018 (P-9).”

Perusal of the above would reflect that once again, it is not disputed that the petitioners had applied for the registration prior to the cut-off date, but rejection of the candidature has been sought to be justified that they did not possess essential qualification of being registered with the Veterinary Council prior to the cut-off date.

6. Short controversy that emerges for adjudication thus is whether petitioners possessed the requisite eligibility in addition to the prescribed qualification viz. whether they were registered as Veterinary Practitioner with the Haryana Veterinary Council or with any Veterinary Council in India or Indian Veterinary Council as required under the Indian Veterinary Council Act, 1984 as on the closing date i.e. 01.6.2017.

7. Position in this respect is no more *res integra*. Before advertizing further, reference may be had to a Single Bench judgment dated 14.09.2018 rendered in CWP-9198-2015 titled **Saroj Bala Versus State of Haryana and others**, wherein in turn citing a Supreme Court judgment, learned Brother Rajiv Narain Raina, J (as he then was) speaking for this Court held as under:

“3. The short question which arises for consideration is; whether the detailed marks certificate relates back to the date of declaration of the result of M.A. (History).

4. Learned counsel for the petitioner relies on the judgment of the Supreme Court in Charles K. Skaria & others Vs. Dr. C. Mathew & others, AIR 1980 SC 1230; V.R. Krishna Iyer, J. delivering judgment of which para.26 is relevant observed as follows:

“26. Even so, there is a snag. Who are the diploma-holders eligible for 10 extra marks? Only those who, at least by the final date for making applications for admissions possess the diploma. Acquisition of a diploma later may qualify him later, not this year. Otherwise, the dateline makes no sense. So, the short question is when can a candidate claim to have got a diploma? When he has done all that he has to do and the result of it is officially made known by the concerned authority. An examinee for a degree or diploma must complete his examination-written, oral or practical-before he can tell the selection committee or the court that he has done his part. Even this is not enough. If all goes well after that, he cannot be credited with the title to the degree if the results are announced only after the last date for applications but before selection. The second condition precedent must also be fulfilled, viz., the official communication of the result before the selection and its being brought to the ken of the committee in an authentic manner. May be, the examination is cancelled or the marks of the candidates are withheld. He acquires the degree or diploma only when the results are officially made known. Until then his qualification is inchoate. But once these events happen his qualification can be taken into account in evaluation of equal opportunity provided the selection committee has the result before it at the time of- not after-the selection is over. To sum up, the applicant for post-graduate degree course earns the right to the added advantage of diploma only if (a) he has completed the diploma examination on or before the last date for the application, (b) the result of the examination is also published before that date, and (c) the candidate's success in the diploma course is brought to the knowledge of the

selection committee before completion of selection in an authentic or acceptable manner. The prescription in the prospectus that a certificate of the diploma shall be attached to the application for admission is directory, not mandatory, a sure mode, not the sole means. The delays in getting certified copies in many departments have become so exasperatingly common that realism and justice forbid the iniquitous consequence of defeating the applicant if, otherwise than by a certified copy, he satisfies the committee about his diploma. There is nothing improper even in a selection committee requesting the concerned universities to inform them of the factum and get the proof straight by communication therefrom-unless, of course, this facility is arbitrarily confined only to a few or there is otherwise some capricious or unvarnished touch about the process.”

5. *I have no doubt that the principles in Charles K. Skaria’s case apply to this case. Not only does the principle apply, the conduct of the Haryana School Teachers Selection Board gives rise to the success to this petition on the short ground that the result sheet discloses that in Category No.1, the petitioner appearing under Roll No.44419547 was assigned 2 marks for Post Graduation, but in Category No.2, she was not assigned marks for Post Graduation. As per criteria, 2 marks were to be given for higher qualification i.e. M.A. (History).”*
(Emphasis supplied)

8. I see no reason as to why based on the principle enunciated in the judgment *ibid*, the petitioners be not given benefit thereof. The analogy contained therein is fully applicable to the case of the petitioners.

9. That apart, in somewhat similar circumstances, I have also had an occasion to deal with the matter pertaining to the registration of certificate under Indian Medical Council, in CWP-1690-2020 titled **Seema Versus State of Haryana and others**, decided on 28.01.2022. Relevant thereof is extracted herein below:-

“8. As stated, the cut-off date of application for the post was 22.01.2020. The petitioner had applied to Delhi Medical council for the registration certificate five days prior thereto. In ordinary course, one is unable to comprehend as to why should the Medical Council sit over the application for grant of the registration when it simply appears to be a mere formality. Neither any merit of the candidate is to be determined before

grant of such a certificate nor even otherwise the registration is an additional qualification of any kind which requires scrutiny of the candidate by the Council. In fact, the registration is granted more or less as a matter of right, that too ex-parte, merely by going through the contents of the application for registration form along with the requisite documents appended therewith. In fact, looking at the procedure and the manner in which the registration is granted, it rather seems fair and equitable to opine that once, the registration is accorded, for the purpose of determining eligibility to apply for the post of Medical Officer, it should enure from the date of the application itself and the mere formality of the date which is put on the certificate, is simply to be read as date of issuance of the certificate but in reality, effective from the date of applying under the requisite proforma of the application. In any case the petitioner should not suffer for the procedural delay on the part of the Medical Council in the grant of registration.

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11. The case of the present petitioner is also on similar footing except for the minor difference that the petitioner herein had applied for certificate five days prior to the cut-off date and in the judgment *ibid*, the certificate was applied ten days prior to the cut-off date. In any case, in view of my opinion that once the certificate is granted, the same should enure with effect from the date of application and not from the date of issuance. It is irrelevant as to when was the same was applied for as long as it was applied before the cut-off date. That apart, as observed above, certificate annexure P/2 for the petitioner's registration on 26.03.2019 with Haryana medical council seems sufficient for eligibility as on the cut-off date to apply for the post in question.

12. In the premise, to my mind, the petitioner was fully eligible as on the cut-off date as per the impugned advertisement and to that extent, the same is not required to be quashed as has been sought. In fact, the respondents would do better in future to entertain, on provisional basis, the applications of all those candidates who have applied for the registration but for no fault of theirs, the same is pending with the Medical Council with the caveat that in case, they are not accorded the registration before the issuance of letter of appointment, their candidature shall be deemed to be rejected and the next in seniority list, as per merit, shall be offered the job.”

(Emphasis supplied)

10. In the backdrop of the judgments quoted hereinabove, it would be pertinent to mention here that in the affidavit dated 14.10.2019 of Dr. Chirantan Kadian, Registrar, Haryana Veterinary Council on behalf of respondents No.1 and 2, it has been clearly stated that the petitioners had

approached the Council, and thereafter, they were issued registration certificates dated 04.10.2018 (Annexure R2/2 and R2/3). To that extent, therefore, the objection of their not being registered with the Council is also fully obliterated and does not survive anymore.

11. As an upshot of the aforesaid discussion, writ petition is allowed. Respondents are directed to proceed with the selection process of the petitioners in accordance with their merit and if found eligible and suitable, they shall be issued appointment letters. It is made clear that the petitioners shall be entitled only *qua* the benefit of seniority w.e.f. the date their counterparts were appointed. They shall not be entitled to any monetary benefits on the principle of ‘No Work No Pay’.

12. Needful exercise be carried out within a period of two months from today.

13. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

May 18, 2022
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No