

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-6105-2012

Date of Decision: 13.07.2023

Bhubanesh Kumar

. . . . Petitioner

Vs.

State of Punjab and others

. . . . Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present Mr. Balwinder Singh Sudan, Advocate
 for the petitioner.

Mr. R.K. Kapoor, Addl. A.G., Punjab.

SANJEEV PRAKASH SHARMA, J.(Oral)

1. Present Writ Petition has been filed by the petitioner seeking quashing of the provisional merit list for the post of Medical Officer (Dental) vide which the petitioner has been declared as 'Not Eligible' on the ground that he was not registered with Punjab Medical Council prior to submission of application form.
2. The petitioner had applied for the post of Medical Officer (Dental). As per the advertisement, the petitioner was required to possess the educational qualification of having passed Bachelor of Dental Surgery and he was also required to be registered in Part 'A' of the register of State Dental Council i.e. Punjab Dental Council.
3. The petitioner applied under SC Sportsman category and secured 34.90 marks and was called for counseling. At the counseling, he produced registration certificate from Punjab Dental Council which was dated 08.12.2011. However, his case for consideration was rejected on the

ground that Punjab Dental Council certificate was issued on 08.12.2011 while the last date for submission of application form was 20.08.2011.

4. Learned counsel for the petitioner submits that issuance of the registration certificate by the Punjab Dental Council shall relate back from the date the petitioner acquired qualification of being a Medical Officer (Dental), and therefore interpreting the same, other similarly placed doctors were considered and appointed.
5. Counsel for the respondents-State submits that the qualifications are required in normal course to be assessed on the last date of submission of application form and the case of the petitioner was rightly rejected.
6. I have considered the submissions.
7. The Writ Petition of the petitioner was dismissed earlier on 29.05.2013 on the aforesaid basis of submission made by learned counsel for the respondents.
8. However, a review petition was filed which was allowed on 22.11.2013.
9. As per the law laid down by the Apex Court in *Ashok Kumar and others vs. Depinder Singh Dhesi and others, reported in 2019(8) SCC 280*, the eligibility of a candidate is required to be seen as on the last date of submission of application form in any recruitment/advertisement.
10. The question arises whether the registration with a dental council is an eligibility criteria to be assessed on the last date of application form or whether a certificate issued by the council would relate back to the date when a person has acquired the medical qualification.
11. The respondents have themselves allowed a similarly situated candidate namely Subprinder Kaur who had also filed a Writ Petition before this Court bearing No.CWP-5717-2012 and the Writ Petition was disposed of as having become infructuous because the appointment letter was issued to

her.

12. In the opinion of this Court, the view taken by the department cannot be said to be wrongful. A person who has issued a certificate of registration with the dental council or technical council, it would relate to treat the concerned doctor eligible from the date he has acquired the qualification. A different interpretation if taken, would deny the doctors from practicing.
13. In view thereof, the Writ Petition deserves to be allowed.
14. The petitioner would be treated as eligible and as he has already been called for counseling, the respondents shall now consider his case for appointment as Medical Officer (Dental) under the SC category.
15. The appointment shall relate back from the date other medical officers have been appointed in order to maintain seniority, however, the petitioner would only be considered as notionally appointed from the said date. Actual benefits shall be given only form the date of passing of this order.
16. Necessary orders shall be issued by the respondents-State within period of one month from the date of submission of the certified copy of this order.
17. Writ Petition stands allowed.
18. No costs.

(SANJEEV PRAKASH SHARMA)
JUDGE

July 13, 2023

Mohit goyal

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

Yes/No
Yes/No