



CWP-14702-2002 (O&amp;M)

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

380

CWP-14702-2002 (O&amp;M)

Date of decision: 30.08.2024

Chandesh Paul

...Petitioner

Versus

Haryana Staff Selection Commission and another

...Respondents

**CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY**

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Present: Mr. Jai Shree Kaushik and Mr. Vijay Rana, Advocates  
for the petitioner.

Mr. Tapan Kumar, DAG, Haryana.

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**AMAN CHAUDHARY, J. (Oral)**

1. Challenge is to the order dated 22.05.2002, Annexure P-1, whereby the claim of the petitioner for consideration for appointment to the post of Dispenser Ayurveda, pursuant to the Advertisement No. 2/2002, category No.4 dated 22.05.2002, was rejected.
2. The solitary premise of the case sought to be built up by the petitioner, as is apparent from the pleading in the writ petition, is that he was entitled to be considered and interviewed in the wake of possessing higher qualifications of B.A.M.S. (Ayurveda).
3. In the written statement dated 27.09.2002, it has been stated that he did not fulfill the requisite qualifications, to which there was no rebuttal by way of filing a replication, relevant paras whereof read thus:

“In this connection, it is submitted that the present post is governed by the Haryana Ayurvedic, Homeopathic and Unani Technical (Group-C) Service Rules, 1997 and that in the said rules, the qualifications for the post of Dispenser (Ayurvedic) has been prescribed as under :-

- i) Up-Vaidya from any recognised



University/Institution or Board or Faculty of Indian System of Medicine established by law in India and recognised by the Government.

ii) Matric or its equivalent.

iii) Knowledge of Hindi and English up to Matric standard.

The Respondent-Commission vide Advt. No. 2/2002, dated 22.5.2002 advertised the 9 posts of Dispenser Ayurveda in accordance with the qualifications laid down in the rules of 1997. It is respectfully submitted that the qualification of the petitioner is Bachelor of Ayurvedic Medicine & Surgery (B.A.M.S) and he does not possess the qualification of Up-Vaidya as laid down in the rules of 1997 and the Advt. No. 2/2002. Therefore, the petitioner does not possess the advertised qualifications and as such, he has been rightly considered ineligible for the post of Dispenser Ayurveda vide Annexure P-2. It is also pertinent to mention here that higher qualification is not the advertised qualification and as such, the petitioner is ineligible for the post of Dispenser Ayurveda.”

4. A beneficial reference can be made to the judgment by Hon’ble the Supreme Court in **Zahoor Ahmad Rather vs. Imtiyaz Ahmad**<sup>1</sup>, wherein the candidature of the appellants possessing higher qualification was rejected for not having the requisite one as per the Advertisement, the relevant paras whereof read thus:

“26. We are in respectful agreement with the interpretation which has been placed on the judgment in Jyoti K.K. [Jyoti K.K. v. Kerala Public Service Commission, (2010) 15 SCC 596 : (2013) 3 SCC (L&S) 664] in the subsequent decision in Anita [State of Punjab v. Anita, (2015) 2 SCC 170 : (2015) 1 SCC (L&S) 329] . The decision in Jyoti K.K. [Jyoti K.K. v. Kerala Public Service Commission, (2010) 15 SCC 596 : (2013) 3 SCC (L&S) 664] turned on the provisions of Rule 10(a)(ii). Absent such a rule, it would not be permissible to draw an inference that a higher qualification necessarily presupposes the acquisition of another, albeit lower, qualification. The prescription of qualifications for a post is a matter of recruitment policy. The State as the employer is entitled to prescribe the qualifications as a condition of eligibility. It is no part of the role or function of judicial review to expand upon the ambit of the prescribed qualifications. Similarly, equivalence of a qualification is not a matter which can be



determined in exercise of the power of judicial review. Whether a particular qualification should or should not be regarded as equivalent is a matter for the State, as the recruiting authority, to determine. The decision in Jyoti K.K. [Jyoti K.K. v. Kerala Public Service Commission, (2010) 15 SCC 596 : (2013) 3 SCC (L&S) 664] turned on a specific statutory rule under which the holding of a higher qualification could presuppose the acquisition of a lower qualification. The absence of such a rule in the present case makes a crucial difference to the ultimate outcome. In this view of the matter, the Division Bench [Imtiyaz Ahmad v. Zahoor Ahmad Rather, LPA (SW) No. 135 of 2017, decided on 12-10-2017 (J&K)] of the High Court was justified in reversing the judgment [Zahoor Ahmad Rather v. State of J&K, 2017 SCC OnLine J&K 936] of the learned Single Judge and in coming to the conclusion that the appellants did not meet the prescribed qualifications. We find no error in the decision [Imtiyaz Ahmad v. Zahoor Ahmad Rather, LPA (SW) No. 135 of 2017, decided on 12-10-2017 (J&K)] of the Division Bench.

27. While prescribing the qualifications for a post, the State, as employer, may legitimately bear in mind several features including the nature of the job, the aptitudes requisite for the efficient discharge of duties, the functionality of a qualification and the content of the course of studies which leads up to the acquisition of a qualification. The State is entrusted with the authority to assess the needs of its public services. Exigencies of administration, it is trite law, fall within the domain of administrative decision-making. The State as a public employer may well take into account social perspectives that require the creation of job opportunities across the societal structure. All these are essentially matters of policy. Judicial review must tread warily. That is why the decision in Jyoti K.K. [Jyoti K.K. v. Kerala Public Service Commission, (2010) 15 SCC 596 : (2013) 3 SCC (L&S) 664] must be understood in the context of a specific statutory rule under which the holding of a higher qualification which presupposes the acquisition of a lower qualification was considered to be sufficient for the post. It was in the context of specific rule that the decision in Jyoti K.K. [Jyoti K.K. v. Kerala Public Service Commission, (2010) 15 SCC 596 : (2013) 3 SCC (L&S) 664] turned.”

5. In view of the afore-referred judgment, the plea of the petitioner is untenable and even if the same were to be allowed, then there would remain no uniformity in the selection process. Besides, neither the advertisement nor



the Rules that prescribed the qualifications based on which it was issued have been challenged. Furthermore by efflux of time, apparently nothing might be surviving in the petition, consequently the same is dismissed being bereft of any merit.

(AMAN CHAUDHARY)  
JUDGE

30.08.2024  
Hemant

Whether speaking/reasoned : Yes / No  
Whether reportable : Yes / No