

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

2024:PHHC:044651

(103)

CM-4812-CWP-2024 in/and
CWP-20970-2018
Date of Decision : April 03rd 2024

Vikrant @ Vikrant Sharma

.. Petitioner

Versus

State of Haryana and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Hardeep Singh Kasan, Advocate, for the petitioner.

Mr. Harish Nain, Assistant Advocate General, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

CM-4812-CWP-2024

Present application has been filed for recalling the order dated 12.03.2024, by which, the present writ petition was dismissed for non-prosecution.

Notice of the application to the counsel opposite.

Mr. Harish Nain, learned Assistant Advocate General, Haryana, who is present in Court, accepts notice on behalf of the respondents. He raises no objection for the grant of prayer as raised in the present application.

Keeping in view the averments made in the application, which are duly supported by an affidavit, the same is allowed. The order dated 12.03.2024 is recalled and the writ petition is restored to its original number and status.

CWP-20970-2018

1. In the present writ petition, the grievance of the petitioner is that the petitioner had applied for the post of Ayurveda Medical Officer (Male) in District Kaithal in pursuance to the Advertisement dated 29.06.2018 (Annexure P-3) but without making any recruitment, in pursuance to the said advertisement, the respondents again advertised the post of Ayurveda Medical Officer, which act of the respondents is totally arbitrary and illegal.

2. The prayer of the petitioner is that as the petitioner was fully eligible and was within the merit, the petitioner should have been appointed on the post of Ayurveda Medical Officer in pursuance to the Advertisement dated 29.06.2018 (Annexure P-3).

3. After notice of motion, the respondents have filed the reply wherein, the respondents have stated that none of the candidate who had applied, was found eligible to be appointed on the said post hence, no appointment in pursuance to the Advertisement dated 29.06.2018 (Annexure P-3) was made and in case of the petitioner, he had only produced the registration certificate (Annexure P-2) which is one of the mandatory condition for appointment on the said post, which was only valid upto 17.05.2017 whereas, the application filled by the petitioner was in July 2018.

4. Learned counsel for the petitioner submits that the petitioner had got the registration with the Board of Ayurvedic and Unani Systems of Medicine, Haryana (Annexure P-2) renewed and he was having a valid registration on the date when he filled up the application form and in fact, the renewed registration was attached along with the application form and the averments made in the reply are incorrect.

5. I have heard learned counsel for the parties and have gone through the record with their able assistance.

6. The only question which arise is whether, the petitioner established his eligibility in pursuance to the Advertisement dated 29.06.2018 (Annexure P-3) while filing up the application form and whether, the stand taken by the respondents that none of the candidate was found fit/eligible to be appointed on the post in question, is correct.

7. In order to verify the facts, the original application form of the petitioner was summoned and perused. The said application form was also shown to the learned counsel for the petitioner, from which, it is clear that the registration certificate issued to the petitioner which was attached with the application form was only valid upto May 2017. No other document was attached along with the application form to prove the eligibility and the respondent keeping in view the documents attached with the application form, decided that the petitioner was ineligible for the post in question as he was not having registration with Ayurvedic and Unani Systems of Medicine, Haryana upto the last date of filling of the application form.

8. From the facts mentioned hereinbefore, it is clear that there was nothing wrong with the decision of the respondents to scrap the selection process in pursuance to the Advertisement dated 29.06.2018 (Annexure P-3) as none of the candidate was found fit/eligible for the post of Ayurveda Medical Officer.

9. The eligibility being claimed by the petitioner on the basis of renewed registration with Ayurvedic and Unani Systems of Medicine, Haryana (Annexure P-2), was never appended along with application form though the same could have been easily done by attaching the renewed registration certificate with the application form. As per the documents

attached with the application form, the petitioner was ineligible as his registration with Ayurvedic and Unani Systems of Medicine, Haryana had already expired on 17.05.2017, which is much prior to the last date of the application form.

10. Further, as per the Advertisement dated 29.06.2018 (Annexure P-3), all the documents which are to be relied upon by the applicant should be attached with the application form with the attested photocopy of the said certificate to prove the eligibility. It is clear that as per the certificate attached by the petitioner with the application form, he could not be declared eligible.

11. Learned counsel for the petitioner has argued that as per the judgment of the Hon'ble Supreme Court of India in ***Civil Appeal No.6072 of 2023 titled as Sweety Kumari vs. The State of Bihar and others, decided on 22.09.2023***, the petitioner should be treated eligible as once he already had the registration certificate which was renewed, as the said certificate was not necessary to be produced.

12. The reliance being placed on the judgment of the Hon'ble Supreme Court of India in ***Sweety Kumari's case (supra)*** is misplaced. In the said judgment, the candidate had attached all the relevant documents along with the application form but at the time of scrutiny, the original certificate was not produced due to which, the candidature of the candidates was cancelled whereas, in the present case, the documents which have been attached with the application form show that the petitioner do not fulfill the eligibility qualification prescribed for the post in question. That being so, the benefit of judgment in ***Sweety Kumari's case (supra)*** as being claimed by the petitioner cannot be extended to him.

13. No other argument was raised.

14. Keeping in view the above, no ground is made out for any interference by this Court in the present writ petition.
15. Dismissed.

April 03rd 2024
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No