



2025:DHC:4303-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 4548/2004, W.P.(C) 4549-4552/2004 & CM APPL.
38562/2018

ANIL KUMAR & ORS.

.....Petitioners

Through: Mr. Rajiv Bajaj, Mr. Anupam
Singh, Mr. Ajeyo Sharma and Mr. Vidur
Marwah, Advocates

versus

THE STATE GOVT. OF NCT OF DELHRespondent

Through: Mr. N.K. Singh for Ms. Avnish
Ahlawat, Standing Counsel

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE AJAY DIGPAUL

JUDGMENT (ORAL)

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21.05.2025

C. HARI SHANKAR, J.

1. Mr. N.K. Singh, learned counsel for the respondent, points out that this writ petition is incompetent before this Court as the *lis* is amenable to adjudication by the Central Administrative Tribunal¹ as it falls within its jurisdiction under Section 19 of the Administrative Tribunals Act, 1985.

2. This contention is correct. The relief sought is clearly within the jurisdiction of the Administrative Tribunal. However, as this petition



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has remained pending before this Court for 21 years as on date, we are not inclined to relegate the parties to any other remedy.

3. The petitioners are Nursing Orderlies who are Class IV employees working with the respondent Government of NCT of Delhi². They claimed to have been discharging the duties of Pharmacist (Ayurveda).

4. By this writ petition, the petitioners have sought a declaration that the Recruitment Rules³ for the post of Pharmacist (Ayurveda) in the GNCTD are illegal, *ultra vires* and violate Articles 14 and 16 of the Constitution of India.

5. The only ground urged by the petitioners in the writ petition, and which has been pleaded before us by Mr. Bajaj, learned counsel for the petitioners, is that there is a distinction between the prescribed qualifying experience for appointment to the post of Pharmacist (Ayurveda) in the RRs, as compared with the qualifying experience prescribed for recruitment to the post of the Pharmacist (Homoeopathy) in the GNCTD. In para 14 of the written submissions that have been filed by the petitioners in the present writ petition, this distinction is thus shown in a tabular form :

Pharmacist	Pharmacist (Ayurved)
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¹ "the Tribunal", hereinafter

² "GNCTD", hereinafter

³ "the RRs" hereinafter



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(Homeopathy)	
• Matric or equivalent • Experience of 2 years in Government Hospital or Private Hospital as homeopathy pharmacist in the dispensary /dispensaries	• Matric or equivalent • Training period of minimum 2 years in cooperative organization or as an assistant Vaidya in Government recognized institute / Bheshas Kalpak Syllabus with an experience of minimum 2 years from any recognized Ayurvedic dispensary / or an experience from the hospital as an Ayurvedic pharmacist.

6. Before us too, the only submissions advanced by Mr. Bajaj is that the afore-noted distinction cannot satisfy the scrutiny of Articles 14 and 16 of the Constitution of India. He submits that Pharmacists, irrespective of whether they are in the discipline of Ayurveda or Homeopathy, discharge identical duties and, therefore, prescribing different experience qualifications for recruitment to the post of Pharmacist (Ayurveda) and Pharmacist (Homeopathy) would infract Articles 14 and 16 of the Constitution of India.

7. We are unable to accept this submission.

8. This is not a case of a claim to pay parity. The petitioners challenge the prescribed eligibility qualification, by way of qualifying experience, for recruitment to the post of Pharmacist (Ayurveda), solely on the ground that it is different from the prescribed qualifying experience for recruitment to the post of Pharmacist (Homoeopathy in the GNCTD.



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9. Articles 14 and 16 of the Constitution of India apply only where there is no intelligible differentia between the persons concerned, as would have a rational nexus to the object of the classification. In the present case, we do not even have to go that far, as it is not possible for this Court to arrive at an informed finding that there is no intelligible differentia between the posts of Pharmacist (Ayurveda) and Pharmacist (Homeopathy). Ayurveda and Homeopathy are distinct medical specialities, having their own distinct ingredients and indicia, and it can certainly not be said that, in prescribing different experience qualifications for Pharmacists in Ayurveda as compared to Pharmacist in Homeopathy, any invidious discrimination exists, as would violate Articles 14 and 16 of the Constitution of India.

10. The writ petition too does not afford any ground on the basis of which this Court can arrive at a conclusion that the prescribed qualification and experience for recruitment to the post of Pharmacist (Ayurveda) in the GNCTD are violative of Articles 14 and 16 of the Constitution of India.

11. We, needless to say, are completely lacking in the requisite expertise to rationalize prescribed eligibility, or qualifications, for recruitment to technical posts such as the post of Pharmacist, which belongs to the public health sector.

12. The petitioners, in our considered opinion, have no case whatsoever.



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13. The writ petition is, accordingly, dismissed with no orders as to costs.

C. HARI SHANKAR, J.

AJAY DIGPAUL, J.

MAY 21, 2025/yg

Click here to check corrigendum, if any