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

LPA-1842-2011 (O&M)

Date of Decision: 30th March, 2026.

DR. SHIV KUMAR KAUSHIK

.....Appellant(s)

V/s

STATE OF HARYANA AND OTHERS

.....Respondent(s)

CORAM: **HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA**
 HON'BLE MR. JUSTICE ROHIT KAPOOR

Present Mr. R.K. Malik, Senior Advocate, assisted by
 Mr. Sandeep Dhull, Advocate, for the appellant.

Mr. Nitin Kaushal, Addl. A.G., Haryana.

Mr. P.K. Mutneja, Senior Advocate, assisted by
Ms. Harmanjot Kaur, Advocate for respondent No.2.

ASHWANI KUMAR MISHRA, J. (Oral)

1. This Appeal arises out of an order dated 09.09.2011 passed by the learned Single Bench in CWP-13609-2010, whereby learned Single Judge has refused to interfere with the order impugned therein on the ground that the appointment of the appellant was based on fraud.

2. Undisputedly, the appellant was appointed as a Medical Officer in the Health Department of Haryana on 23.04.2003. He was charge-sheeted on the charge that his MBBS degree is not genuine. It is claimed by the appellant that such enquiry was dropped, however, the appellant was suspended on 07.11.2006 whereafter, a show cause notice was issued to him on 15.08.2008. By this notice, the appellant was called upon to explain as to why his services not be terminated. A reply was submitted to such notice on

27.10.2008 whereby the proceedings against the appellant were not carried out further. The Financial Commissioner and Principal Secretary to the Government, however, passed the impugned order dated 09.07.2010, withdrawing the previous order whereby the disciplinary proceedings were dropped and has passed the order of dismissal of the appellant.

3. The basis of the appellant to claim appointment is his MBBS degree obtained from the SMC Medical College, Almaty, in the Capital of Country Kazakhstan. It is also undisputed that on the basis of the degree of MBBS, the Haryana Medical Council had accorded registration to the appellant as a Doctor.

4. The learned Single Judge dismissed the writ petition after examining the facts of the case. Learned single Judge is of the view that the allegation that the appellant had obtained the appointment without possessing an MBBS degree was serious enough to justify his ouster from the appointment.

5. Learned counsel for the appellant submits that during the pendency of the present Appeal, the appellant has been allowed to continue in service and he has superannuated. It is also submitted that the MBBS degree issued to the appellant is genuine and valid and the contrary premise, on which impugned action is taken against him, is wholly arbitrary.

6. Learned Senior Counsel representing respondent No.2-Haryana Medical Council makes a statement before the Court that the appellant was accorded registration by the Council to practice as a Doctor in the State of Haryana. He further states that no adverse confirmation with regard to

genuineness of the MBBS degree has been obtained so far by the Haryana Medical Council as the concerned college in Kazakhstan has not responded.

7. Be that as it may. It transpires that though the Writ Petition was dismissed by the learned Single Judge, but while entertaining the present LPA, following order was passed by this Court on 28.09.2011:-

“Notice of motion, returnable on 16.12.2011.

In the meanwhile, status quo with regard to the present position of the appellant shall be maintained”

8. Again, when the matter was taken up, following order was passed on 24.08.2012:-

“Heard.

Admitted.

Interim order to continue.

We however, grant liberty to State Government and the Medical Council of India to verify the genuineness of the degree in Doctor of Medicine (General Medicine) obtained by the appellant from Kazakh Medical University (Almaty) through the diplomatic channels.

Liberty is also granted to seek modification of the interim order after obtaining the abovestated information, if so required.”

9. The appellant has continued to work pursuant to such orders and has also attained superannuation. His registration certificate as a Doctor with the Haryana Medical Council has also not been questioned.

10. In the peculiar facts and circumstances of this case, we find that the charge on the appellant possessing an unauthorized degree has not been appropriately verified. The Haryana Medical Council is the competent

body to certify as to whether a person has acquired the qualification of MBBS or not.

11. Undisputedly, the Haryana Medical Council has not only issued the certificate of registration to the appellant but has also re-affirmed it during the pendency of the present LPA. The appellant otherwise has continued in service under the interim orders passed by this Court and has retired from service on 30.04.2023.

12. In such circumstances, we are of the considered view that the present Appeal merits acceptance. The allegation that the applicant-appellant acted fraudulently has not been found to be sustainable. Consequently, the Appeal is allowed. Impugned Judgement dated 09.09.2011 passed by the learned Single Judge is set aside. The writ petition filed by the appellant is allowed. The respondents are directed to treat the appellant's appointment as valid and to consider his pending claims for service benefits and other retiral benefits, by passing appropriate orders within a period of three months.

13. All pending applications, if any, in this case are dismissed/disposed of accordingly.

[ASHWANI KUMAR MISHRA]
JUDGE

[ROHIT KAPOOR]
JUDGE

March 30, 2026

Ess Kay

<i>Whether speaking / reasoned</i>	:	<i>Yes</i>	/	<i>No</i>
<i>Whether Reportable</i>	:	<i>Yes</i>	/	<i>No</i>