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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No. 1261/89

Date of decision: 13.11.1992

Shri Ravi Shanker and
Another

.... Applicant

Versus

Director, C.G.H.S.
and Another

.... Respondents

For the Applicants

.... Shri B.S. Charya, Advocate

For the Respondents

.... Shri P.P. Khurana, Advocate

CORAM:

The Hon'ble Mr.P.K. Kartha, Vice Chairman(J)

The Hon'ble Mr.B.N. Dhoundiyal, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgment? *Yes*
2. To be referred to the Reporters or not? *Yes*

JUDGMENT

(of the Bench delivered by Hon'ble
Shri P.K. Kartha, Vice Chairman(J))

We have gone through the records of the case and have heard the learned counsel for both the parties. The short point for consideration is whether the two applicants before us are eligible to be considered for appointment as Ayurvedic Pharmacists under the Central Government Health Scheme (CGHS) in view of their educational qualifications and experience.

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2. According to the relevant Recruitment Rules notified in 1979, the essential qualifications prescribed for the post of Ayurvedic Pharmacist are the following:-

(1) Matriculation or equivalent;

(2) Training in Upavaidya (Kalpad) Course or training in one of the following courses:-

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|---------------------|---|--|
| (i) Vaidya Visharad | } | Awarded by All India Ayurvedic Congress. |
| (ii) Ayurved Vishak | | |
| (iii) Ayurved Ratna | } | Awarded by Hindi Sahitya Sammelan; and |

(3) At least 2 years' experience as Ayurvedic Pharmacist in a recognised Ayurvedic dispensary, hospital or pharmacy.

3. The applicants claim to have the requisite experience while working in the Hari Nagar Dispensary, but this is denied by the respondents. Applicant No.1 was posted as Safaiwala and Applicant No.2 as Nursing Orderly in the Hari Nagar Dispensary and they have worked there for more than two years. They claim that during this period, they have performed the duties of Pharmacists, in addition to their own, and that when they represented for absorption as Pharmacists in the regular pay-scale of Pharmacists, the respondents threatened them with transfer elsewhere to deprive them of their right to be absorbed as Pharmacists. The respondents have denied this allegation. According to

them, the applicants have not been asked to perform the duties of Pharmacist and that according to their policy, an employee of the dispensary is liable to transfer after a period of service of five years.

4. The applicants are matriculates and both of them possess the qualification of Vaid Visharad from Hindi Sahitya Sammelan, Allahabad. According to the respondents, the qualification of Vaid Visharad from Hindi Sahitya Sammelan, Allahabad, is "now" not a recognised qualification for the post of Ayurvedic Pharmacist (emphasis added).

5. In our opinion, the claim of the applicants for grant of pay-scale of Pharmacist to them on the ground that they have performed some of the duties of Pharmacist, in addition to their own, is not well founded. Their plea that they should not be transferred from Hari Nagar Dispensary to another dispensary, is also not legally sustainable as such transfers in the exigencies of service cannot be faulted.

6. The respondents have indirectly admitted that the qualification of Vaid Visharad from Hindi Sahitya Sammelan, Allahabad was a recognised qualification for the post of Ayurvedic ^{Pharmacist 2} ~~Pharmacist~~, but not now. The reasons for the change in their policy in this regard have not

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been disclosed. In the facts and circumstances, we are of the view that in the interest of justice, in case the respondents have in the past appointed persons as Ayurvedic Pharmacists who possess such qualifications as the applicants do, the applicants should also be considered for appointment as Ayurvedic Pharmacists by giving ^{them} ~~the~~ necessary relaxation in regard to qualification and experience, whenever vacancies arise. We order and direct accordingly. The application is disposed of on the above lines, leaving the parties to bear their respective costs.

B.N. Dhoundiyal
(B.N. Dhoundiyal) 12/11/92
Administrative Member

P.K. Kartha
13/11/92
(P.K. Kartha)
Vice-Chairman (Judl.)