



Central Administrative Tribunal Jammu Bench, Jammu

O.A. No. 479/2020

Wednesday, this the 27th day of January, 2021

(Through Video Conferencing)

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Pradeep Kumar, Member (A)

Dr. Tarun Gupta, Aged 30 years, Son of Sh. Parshotam Gupta, R/o Ward No. 6, VPO Khour, Tehsil Khour, District Jammu.

..Applicant

(Mr. Sunil Sethi, Senior Advocate assisted by Mr. Ankesh Chandel, Advocate)

Versus

1. Union Territory of J&K, through Financial Commissioner, Health & Medical Education Deptt., Civil Secretariat, Jammu.
2. J&K Public Service Commission, Resham Ghar Colony, Jammu through its Secretary.
3. Chairman, J&K Public Service Commission, Resham Ghar Colony, Jammu.
4. Director, Indian System of Medicines, J&K Srinagar.
5. Medical Officer, Government Ayurvedic Dispensary, Dera Dullian Poonch.
6. Ms Benazir Yousuf, D/o Sheikh Mohammad Yousuf, R/o Village Loran Mandi, District Poonch.

.....Respondents

(Mr. F.A. Natnoo, Advocate and Mr. Rajesh Thapa, Deputy Advocate General)

ORDER (ORAL)

Mr. Justice L. Narasimha Reddy:

The Jammu & Kashmir Public Service Commission, the 2nd respondent herein, issued a notification for selection of candidates for the post of Medical Officer Ayurvedic. The applicant and several others responded. The process involved conducting of written test and awarding of points to various



attributes. The applicant claimed the status of 'actual line of control' (ALC). He was awarded 45.25 points in aggregate. The last candidate selected under the ALC category, was the one, who secured 45.75 points. The applicant contends that though he studied a Post Graduate Diploma course in Nutrition and Health Education, he was not awarded 2 points, as provided for under the Advertisement itself, and had those points been awarded, he would have stood for selection. The applicant contends that the diploma studied by him is useful for the ayurvedic doctors also, and there was no justification in ignoring the same. This O.A. is filed challenging the action of the respondents in not awarding two points and thereby, they were not selecting him. Consequential reliefs are also claimed.

2. On behalf of the respondents, a counter affidavit is filed. It is stated that since the post is Medical Officer Ayurvedic, the diploma course studied by the applicant in allopathic, cannot be of any use. It is also stated that the diploma courses, that are relevant in ayurvedic, are already notified in the gazette by the Government of India and that the applicant was not entitled to be awarded two points, as claimed.

3. We heard Mr. Sunil Sethi, learned senior counsel assisted by Mr. Ankesh Chandel, learned counsel for applicant, Mr. F A Natnoo, learned counsel and Mr. Rajesh Thapa, learned Deputy Advocate General for respondents, in detail.

4. The qualifications prescribed for the post are mentioned in the advertisement itself. It is Post Graduation in ayurvedic



medicine. The possession of the qualification would enable the candidate to be considered for selection, depending upon the performance in written test. The method of selection is elaborated in the counter affidavit. According to this, 60 points are awarded for written examination, 25 points for performance in the *viva voce* and up to 8 points for higher qualifications. For one year Post Graduate diploma, 2 points are allocated. The applicant claims benefit under this clause. Had the Post Graduate diploma studied by the applicant been of relevance to the concerned post, he would have certainly been entitled to be awarded 2 points. The clause itself reads as under:-

“One year Post Graduate Diploma in the subject relevant to the job/post.”

5. The diploma course studied by the applicant is the one in Nutrition and Health Education and it is referable to allopathic type of medicine. It hardly needs any mention that not only the method of treatment, but also the nutrition or other related issues, are substantially different from ayurvedic, compared to the allopathic one. In a way, the nutrition or food aspects become more prominent for treatment in the allopathic method of treatment. The Government of India published a list of diploma courses, referable to ayurvedic medicine. They cover various branches, such as pediatric, gynecology, general medicine, and there is no reference to the diploma course studied by the applicant, in the said list. Though a clarification is said to have been issued by the Under Secretary in the Ministry, we are of the

view that it does not satisfy the requirement. In a competitive selection process, the Rule is required to be interpreted strictly. It is only when the concerned statutory agency recognizes the diploma, as the relevant one, that the applicant can claim awarding of points for that.



6. We do not find any merit in this O.A. It is accordingly dismissed. There shall be no order as to costs.

(Pradeep Kumar)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

January 27, 2021

lg/sunil/ankit/shakhi