

**Central Administrative Tribunal
Principal Bench, New Delhi**

OA No.165/2013

New Delhi, this the 9th day of September, 2016

**Hon'ble Mr. P.K. Basu, Member (A)
Hon'ble Dr. Brahm Avtar Agrawal, Member (J)**

Dr. Pradeep Kumar Goswami,
S/o Shri Bhagawan Giri Goswami,
R/o H.No. 1/7475, Gali No.12-A,
Eas Gorakh Park, Shahdara, Delhi.Applicant

(By Advocate Mr. M.K. Bhardwaj)

Versus

Govt. of NCT of Delhi through:

1. The Chief Secretary
Govt. of NCT of Delhi,
Delhi Seretariat, I.P. Estate,
Delhi
2. Delhi Subordinate Services Selection Board,
Through its Secretary
3rd Floor, UTCS Building, Inistitutional Area,
Vishwas Nagar, Shahdara,
Delhi-110032
3. The Commissioner
South Municipal Corporation of Delhi
Civic Centre,
New Delhi.

4. The Addl. Commissioner (Health)
South Municipal Corporation of Delhi
Dr. SPM, Civic Centre,
Minto Road,
New Delhi. Respondents

(By Advocate: Mrs. P.K. Gupta, Ms. Vertika Sharma)

ORDER (ORAL)

Hon'ble Mr. P.K. Basu, Member (A)

The applicant, Dr. Pradeep Kumar Goswami, is Bachelor of Ayurvedic Medicine and Surgery from (B.A.M.S.) Delhi University. He underwent two years clinical training (from 1993-94 to 1994 – 95) in Deen Dayal Upadhyaya Hospital, while pursuing the five and half years degree course of B.A.M.S./B.U.M.S. according to certificate dated 19.07.1996 issued by A.& U. Tibbia College & Allied Units, which is affiliated to University of Delhi. During this practical training he attended Lectures/ demonstrations, wards and O.P.Ds. in the hospital. He applied for post of Ayurvedic Compounder in Health Department of Municipal Corporation of Delhi, as he was fulfilling all the eligibility conditions as prescribed in the advertisement for the said post. His candidature was rejected as having more higher qualification than the specified eligibility criteria.

2. The essential qualification and experience for the said post was as under:-

Essential Qualification:-

a) Matriculation or equivalent

b) Training in Upavaidya (Kalpad) course duration of which should not be less than two years from a Government organization or recognized private institution like All India Ayurvedic Congress or its equivalent.

OR

Training in one of the following courses

- (i) Vaidya Vishard (As per letter No.4521/AD(H)/DK/2005 dated 19.-5.2005 of Addl. Dy. Commissioner (Health), MCD the qualification stands de-recognized)
- (ii) Ayurved Vishak (Awarded by All India Congress)
- (iii) Ayurved Rattan* (Awarded by Hindi Sahitya Sammelan). * As per letter No.4521/AO (H)/DK/2005 dated 19.05.2005 of Addl. Dy. Commissioner (Health), MCD the qualification stands de-recognized.

(C) At least two years experience as Ayurvedic Compounder in a recognized Ayurvedic dispensary, Hospital or Pharmacy.

3. The learned counsel for the applicant argued that as the certificate issued by the A.& U. Tibbia College & Allied Units, indicates, the applicant underwent practical training for a period of two years, including in the subject of medicine and, therefore, denying him appointment to the post of Ayurvedic Compounder by the respondents is unjustified.

4. Per contra, learned counsel for the respondents states that one of the requirement is basic training in Upavaidya (Kalpad) course, duration of which should not be less than two years from a Government organization or recognized private institution like All India Ayurvedic Congress or its equivalent, or training in one of the following courses.

- (i) Vaidya Vishard (As per letter No.4521/AD(H)/DK/2005 dated 19.-5.2005 of Addl. Dy. Commissioner (Health), MCD the qualification stands de-recognized)
- (ii) Ayurved Vishak (Awarded by All India Congress)
- (iii) Ayurved Rattan* (Awarded by Hindi Sahitya Sammelan). * As per letter No.4521/AO (H)/DK/2005 dated 19.05.2005 of Addl. Dy. Commissioner (Health), MCD the qualification stands de-recognized.

5. It is stated on behalf of the respondents that the applicant does not possess two years experience as Ayurvedic Compounder in a recognized Ayurvedic dispensary, Hospital or Pharmacy nor the alternate training experience as stated above.

6. It is the case of the respondents, therefore, that since his qualification doesn't match with the required qualification for the post of A. Compounder, the case of the applicant has been rejected vide order dated 08.11.2012, which has been passed in compliance with the direction of this Tribunal in OA No. 3156/2012 in the case of the applicant.

7. We have heard the learned counsel for both sides and perused and scrutinized the various documents place before us. There is no doubt that the BAMS educational qualification of the

applicant is more than that required for the post of A. Compounder. He has undergone practical training for two years in the subjects of Medicine, Obstetrics, Surgery, E.N.&T, Gynaecology, Orthopaedics, Paediatrics & Dermatology. He has attended Lectures demonstrations, wards and O.P.Ds in the Hospital. It is common knowledge that in Ayurvedic science knowledge in medicine is incomplete unless you know how to prepare the various medicinal combinations and in the right proportions. Therefore, the certificate issued by Tibbia College & Allied Units, which is affiliated to University of Delhi, is sufficient proof that the applicant has also two years experience as required under the Recruitment Rules as quoted above. This is a very strange case as a BAMS has applied for the post of A. Compounder. This is, perhaps, because of unemployment and personal difficulties which has forced the applicant to go for a lower job. We also take note of the fact that the applicant belongs to OBC and is physically handicapped.

8. In view of the facts explained above, we are of the view that respondents have taken an incorrect view that the applicant does not fulfill the required experience. Therefore, the impugned order dated 08.11.2012 is quashed and set aside and the respondents are directed to appoint the applicant to the post of A.

Compounder. He will draw pay and allowances from the day he joins. No arrears can be paid to the applicant.

9. We fix a time frame for implementation of our order as 90 days from the date of receipt of a certified copy of this order.

(Dr. Brahm Avtar Agrawal)
Member (J)

(P.K. Basu)
Member A)

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