

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

O. A. No.60/795/2016

Date of decision: 01.06.2018

(Reserved on: 28.05.2018)

**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J).
HON'BLE MRS. P. GOPINATH, MEMBER (A).**

...

Sunil, aged 30 years, S/o Shri Subhash Chander, Technician Grade IV (Biomedical) Group 'C', Department of Engineering under Superintending Hospital Engineer, PGIMER, Sector-12, Chandigarh.

... APPLICANT

VERSUS

1. Post Graduate Institute of Medical Education and Research, Sector-12, Chandigarh through Director.
2. Director, Post Graduate Institute of Medical Education and Research, Sector-12, Chandigarh.

... RESPONDENTS

PRESENT: Sh. R.K. Sharma, counsel for the applicant.
Ms. Nimrat Shergil, counsel for the respondents.

ORDER

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SANJEEV KAUSHIK, MEMBER (J):-

1. Applicant assails order dated 01.08.2016 whereby he has been declared ineligible for the post of Technical Officer (Dialysis) Group 'B' on the ground that he does not possess requisite experience.
2. The facts are not in dispute.

3. Conjunctive perusal of pleadings makes it clear that in the year 2015 respondent PGIMER issued advertisement inviting applications for appointment to the post of Technical Officer (Dialysis). The applicant was allowed to participate in the selection process and he was declared successful. On verification of documents, it transpired that he does not have requisite experience as prescribed in the advertisement, therefore, vide impugned order applicant was declared ineligible. Against this order, the applicant is before this Court. Applicant has taken various grounds for invalidation of the impugned order.
4. Sh. R.K. Sharma, appearing on behalf of the applicant vehemently argued that view taken by the respondents in declaring applicant ineligible for not having requisite experience is contrary to rules of the post. Therefore, he prayed that impugned order be set aside and direction be issued to the respondents to consider his case for appointment.
5. Learned counsel for the respondents did not dispute the factual accuracy of the matter, but submitted that since applicant is not having requisite experience as noticed in the advertisement, therefore, he has been declared ineligible. It has been submitted that applicant is only having three months, 10 days experience after obtaining degree whereas in the advertisement, 2 years experience after getting qualification is mandatory. Therefore, they have rightly declared applicant ineligible in terms of experience. Ms. Shergil vehemently argued that it is clear from the advertisement that period of experience wherever mentioned will be considered after

obtaining prescribed qualification. Thus, it is prayed that the O.A. be dismissed by upholding the impugned order.

6. We have given our thoughtful consideration to the entire matter. Solitary issue we have to consider in the present O.A. is whether experience prescribed in the advertisement is to be seen from the date of passing of degree or experience prior to obtaining degree can be considered. To resolve the controversy and for better appreciation, relevant rule which govern the field and the guidelines which the PGIMER is following are reproduced below:

“Recruitment Rules

1.	Name of the Post	TECHNICAL OFFICER (DIALYSIS) (PROPOSED)
2.	No. of Posts	1 (One)
3.	Classification	Group B
4.	Pay Scale	PB-2, 9300-34800+G.P. Rs.4600/- (Revised)
5.	Method of Recruitment	100% by Direct Recruitment
6.	Age Limit of Direct Recruits	18-30 years
7.	Educational & Other Qualification	<p>Degree in Electrical/Electronic/Instruments Engineering from recognized University/ Institution with two years experience in repair and maintenance of Dialysis Machine and water treatment equipment.</p> <p>OR</p> <p>Three years diploma in Electrical/Electronic/Instruments Engineering from recognized University/ Institution with 8 years Practical experience (of which atleast 3 years should be after the diploma) in repair and maintenance of Dialysis Machine and water treatment equipment.</p> <p>OR</p> <p>Four years part time diploma in the Electrical/Electronic/Instrument Engineering from recognized University/ Institution with a minimum of 8 years practical experience (of which atleast 4 years should be after the diploma) in repair and maintenance of Dialysis Machine and water treatment equipment.”</p>

"The period of experience wherever prescribed shall be counted after obtaining the prescribed qualification."

Perusal of the above makes it clear that person who is having two years experience in repair and maintenance of Dialysis Machine and water treatment equipment after acquiring the qualification is eligible. Guidelines which the respondents are following as noticed above, the period of experience whichever shall be counted after obtaining prescribed qualification. Thus, it makes clear that wherever experience is prescribed then the same is to be taken from the date of acquiring qualification and not as suggested by the counsel for the applicant that experience gained even before acquiring qualification can be counted towards experience. Since applicant has acquired degree in the relevant subject in the year 2014 and is only having three months 10 days experience, therefore, he has rightly been declared ineligible. Facts in the relied upon case are entirely different from the present case, therefore, the same will not render any assistance

7. The issue with regard to acquiring experience if there is no date in the rule has came up for consideration before the Hon'ble Apex Court in the case of **Shankar Mandar vs. State of Bihar** (2003 (9) SCC 519, 523), where Lordships while answering poser therein have held that where no such cutoff date is provided then it will be date pointed in the advertisement calling for applications. In the present case, since PGIMER is following guidelines across the Board, therefore, they assume significance along with rule. Thus, the

experience is to be counted from the date of acquiring qualification and not prior to that.

8. We find no reason to interfere in the matter. Accordingly, the O.A. being devoid of merit is dismissed.

(P. GOPINATH)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Date:

Place: Chandigarh.

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