

CENTRAL ADMINISTRATIVE TRIBUNAL,

CHANDIGARH BENCH

O.A.NO.060/00822/2016

Decided on : 28.08.2018

**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J) &
HON'BLE MS. AJANTA DAYALAN, MEMBER (A)**

Kuldeep Singh

S/o Sh. Brij Lal, aged 24 years

R/o H.No. 1416/1,

Sector – 44B, Chandigarh

(Group C).

APPLICANT

BY: **MR. D.S. RAWAT, ADVOCATE.**

Versus

1. Union of India through Secretary, Ministry of Health & Family Welfare, Nirman Bhawan, Maulana Azad Road, New Delhi.
2. Post Graduate Institute of Medical Education & Research, Chandigarh through its Director
3. Administrative Officer, Post Graduate Institute of Medical Education & Research, Chandigarh.

(BY MR. VIKRANT SHARMA, ADVOCATE)

4. Roshan Bawa S/o Sh. Chander Mohan, Male Multipurpose Worker, PGIMER, Chandigarh through Director, Post Graduate Institute of Medical Education & Research, Chandigarh.

(BY MR. S.S. KHAIRA, ADVOCATE)

5. Chairperson, Interview Committee for Group 'C' Ministerial Staff and other Miscellaneous Staff (who conducted interview of the Male Multipurpose Worker) C/o Director, Post Graduate Institute of Medical Education & Research, Chandigarh.

(BY MR. VIKRANT SHARMA, ADVOCATE)

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Respondents

O R D E R (ORAL)
HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)

1. The applicant has filed this Original Application under section 19 of the Administrative Tribunals Act, 1985, for quashing the order dated 9.11.2015 (Annexure A-1), vide which respondent no.4 has been appointed as Male Multipurpose Worker (MMW), by declaring the applicant as ineligible, though applicant has topped the written test by scoring 63 marks out of 85.
2. The facts leading to the filing of the instant Original Application (OA), that an advertisement dated 1.8.2014 (Annexure A-2) was issued for various posts including one post of MMW for which following qualification was prescribed :-
 - (a) Matriculation or its equivalent from a recognized Board / School.
 - (b) One year experience of Community Health Programme in Rural / Urban Area.

Desirable : Certificate / formal training as Basic Health Worker.
3. The respondents uploaded a list of eligible candidates for appearing in the Written Examination for the post of MMW on 7.11.2014, in which applicant was included in the list at Sr. No. 23. The respondents conducted written test in which applicant and private respondent appeared in which the applicant qualified by scoring 63 out of 85 marks whereas private respondent had secured much less marks (55/85) than the applicant. The list of candidates eligible by the Scrutiny Committee for interview was published on 16.9.2015 in which applicant was included at Sr. No. 4. The applicant appeared in the interview on 20.10.2015 but surprisingly, respondent no.4 was issued appointment letter dated 9.11.2015 to the post of MMW. Hence the Original Application.
4. The respondents No. 1, 2, 3 & 5 have opposed the claim of the applicant by filing a detailed reply. They submit that since the applicant

was not having the relevant experience and as such he was declared ineligible, which can be done at any point of time, before actual appointment is made and as such they have prayed for dismissal of the O.A.

5. We have heard the learned counsel for the parties at length and examined the material on file minutely.

6. Since a very short and crisp question was involved, as to why the applicant was declared ineligible, we had called for the records from the respondents.

7. It is not in dispute, at all, that the advertisement in question, inter-alia, provided that a candidate must have "One year experience of Community Health Programme in Rural / Urban Area". The applicant claimed that he has such experience in pest control. A perusal of the same shows that the respondents had constituted a Committee of State Epidemiologist, Anti Malaria Officer and Assistant Director Malaria, which gave its report on 21.8.2018. It considered the definition of Community Health Worker (CHW) and inclusion of Pest Control Operator/Supervisor under the same. It considered the definition given by the World Health Organization for CHW and performance of activities and prime duties by holder of such designations and came to a definite conclusion that the Pest Control Operator / Supervisor, does not fall under the board category of CHW. In view of this, one cannot find any fault with the action of the respondents in declaring the applicant as ineligible for the post in question.

8. It has been held in **UNION OF INDIA V. S.L. DUTTA** AIR 1991 SC 363 and **STATE OF ANDHRA PRADESH V. V. SADANANDAM** AIR 1989 SC 2060 that the manner in which posts are to be filled up including the methodology and the modalities thereof is the prerogative

of the employer and that once a policy decision based on expert advice is taken and all the aspects are thrashed out, it cannot be treated as without application of mind or arbitrary and such functions are best left to the Executive and the Courts should not interfere with the same.

9. In view of the aforesaid discussion and position under the law, we find that the O.A. lacks any merit and is dismissed accordingly. The parties are, however, left to bear their own costs.

**(SANJEEV KAUSHIK)
MEMBER (J)**

**(AJANTA DAYALAN)
MEMBER (A)**

Place: Chandigarh.
Dated: 28.08.2018

HC*

