

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

Dated the Thursday 26th day of July Two Thousand And Eighteen

PRESENT:

THE HON'BLE MR. R. RAMANUJAM, MEMBER (A)
THE HON'BLE MR. P. MADHAVAN, MEMBER (J)

O.A./310/417/2016

S. Gunasundari, D/o. Sundaramurthy,
Hindu, aged 29 years,
R/o. No. 261, Kavikul Sarojini Street,
Sudhana Nagar Extension,
Nainarmandabam, Puducherry.

.....Applicant

(By Advocate : M/s. V. Ajaykumar)

VS.

1. Union of India, Rep. by the Government of Puducherry through the Chief Secretary, Chief Secretariat, Puducherry;
2. The Director, Directorate of Indian System of Medicines and Homeopathy, Puducherry.

... .Respondents ▲

(By Advocate: Mr. Syed Mustafa)

ORAL ORDER

(Pronounced by Hon'ble Mr. R. Ramanujam, Member (A))

Heard both sides. Applicant has filed the O.A. seeking the following reliefs:-

"to quash that part of the notification with No 18/DISM&h/Estt./E1/2016 dated 15.2.2016 which prescribed H.Sc. or its equivalent as the qualification and consequently to direct the second respondent to consider and appoint the applicant to the post of Pharmacist (Ayurveda)."

2. The case of the applicant is that the applicant was qualified to be appointed as Pharmacist (Ayurveda) in the second respondent institution in terms of pre 2014 rules which allowed a person possessing a Diploma in Ayurveda to compete for the post of Pharmacist. It is alleged that the prescription of qualification of a pass in H.Sc. (+2) is against law and the second respondent was bound to fill up the vacancies on the basis of the Diploma acquired by the applicant. Requiring a pass in +2 as well as a Diploma in Pharmacy amounted to insisting on double qualification. This Tribunal had elsewhere declared that a Diploma acquired after undergoing a three year course after the 10th class is equivalent to the Higher Secondary (+2) and, therefore, no separate qualification of a pass in Higher Secondary is required. Accordingly, the impugned notification, Annexure A-10 of the second respondent dated 15.2.2016 calling for applications only from persons with both the qualifications was a violation of law, it is contended.

3. Counsel for the respondents submits that the applicant has, in the O.A. referred to a notification that was issued in 2009 for filling up 7 posts of Ayurveda Pharmacists on the basis of the then prevailing recruitment rules. However, the applicant did not apply at the relevant time as he was not even in possession of the Diploma qualification which he acquired only in 2013. The applicant had no right to insist that a particular provision in the rules should continue perpetually. No prejudice has been caused to the applicant by the amendment to the rules as no vested right of the applicant has been taken away. The appointment to the said post of Pharmacist is by way of direct recruitment and, therefore, the applicant not being an employee of respondent had no right to question the amendment to the recruitment rules.

4. We have considered the submissions. It is not in dispute that the recruitment rules notified that Government of Puducherry by notification dated 27.5.2014 clearly provide H.Sc. or its equivalent and Diploma in Pharmacy (Ayurveda/Siddha/Homeopathy/Unani) of two years duration or its equivalent awarded by recognized University or Institutes recognized by the Government and three months training in dispensing Ayurveda/Siddha/Unani/Homoepathy Medicines in recognized Ayurveda/Siddha/Unani/Homoeopathy Hospital as an essential qualification. As such, the respondents do not appear to have committed any violation of the rules in issuing the Annexure-A/10 employment notification dated 15.2.2016. We are inclined to agree with the learned counsel for the

respondents that the applicant has no vested right to be governed by the pre-amended rules merely on the ground that the previous notification for the same post issued in 2009 did not require the qualification of H.Sc (+2) as an essential qualification. Further, the rule itself has not been challenged in this O.A but only the employment notification based on such rule. We do not, therefore, consider it a fit case to be interfered with by the Tribunal.

5. The O.A. is misconceived and is accordingly dismissed. No costs.