

(2014) 05 P&H CK 0197

High Court Of Punjab And Haryana At Chandigarh

Case No: CWP No. 4977 of 2013 (O&M)

Ankush Goyal

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision: May 28, 2014

Citation: (2014) 3 SCT 771

Hon'ble Judges: Rajesh Bindal, J

Bench: Single Bench

Advocate: Vipul Jindal, Mr. H.P.S. Ghuman, Mr. S.C. Nagpal, Advocates and Mr. Sandeep Jasuja, Advocate for in CWP No. 14027 of 2013, Advocate for the Appellant; Yatinder Sharma, Addl. Advocate General, Punjab, Mr. R.K. Shukla, Advocate for Respondent No. 4 in CWP No. 14027 of 2013, Mr. Gurminder Singh, Senior Advocate, Mr. R.P.S. Bara, Advocate for Respondent No. 2 in CWP No. 5492 of 2013 and Mr. Sandeep Jasuja, Advocate for Respondent No. 5 in CWP No. 4977 of 2013, Advocate for the Respondent
Final Decision: Disposed Off

Judgement

Rajesh Bindal, J.

This order will dispose of a bunch of petitions bearing CWP Nos. 4977, 5492, 5966, 6756, 7527 and 14027 of 2013, as common questions of law and facts are involved.

2. The petitioners herein are Medical Graduates. They are aggrieved of non-consideration of their candidature for appointment to the post of Medical Officer.

3. Learned counsel for the petitioners submitted that Punjab Public Service Commission (for short, "the Commission") advertised 334 posts of Medical Officer, for which public notice was issued on 20.12.2012. The last date fixed for submitting the applications on-line was 11.1.2013, whereas hard copy thereof was to be submitted by 21.1.2013. The essential qualifications required were degree in MBBS and registration with Punjab Medical Council or with any other duly constituted Medical Council in India. The screening test for the post was held on 17.2.2013.

Thereafter, list of the candidates, who were declared eligible and the list of the candidates, from whom certain documents were required, were published. In the aforesaid public notice, list "A" contained the names of eligible candidates. It was mentioned therein that the candidates, who could not submit copy of MBBS degree, may bring the same at the time of interview for scrutiny, failing which their candidature will be rejected. In list "B", names of the candidates were mentioned, from whom certain documents were required to ensure their eligibility. In that list, as against the condition laid down in the advertisement regarding registration with the Medical Council, it was mentioned that even proof of filing the application for permanent registration issued before 11.1.2013 shall be sufficient.

4. The submission of learned counsel for the petitioners is that the petitioners in the bunch of petitions had passed their MBBS degree and even completed their internship. As the same was completed a few days before the cut-off date, it took some time in getting the internship completion certificate, the degree and thereafter submit application for registration with Medical Council. Though in the advertisement initially issued, the eligibility requirements were to be completed on the date of filing the application on-line, i.e., 11.1.2013 and a hard copy thereof was to be submitted by 21.1.2013, but still all the candidates, even without examining their eligibility as such, were permitted to appear provisionally in the screening test and the result thereof was declared. The Commission itself extended the date for production of MBBS degree upto the date of interview and the requirement of production of permanent registration certificate with Medical Council, which was required on the cut off date earlier, was also diluted to the extent that even proof of filing application till 11.1.2013 was also sufficient. As per condition No. 7 in the advertisement, the candidate was required to submit by 21.1.2013 a copy of the application submitted on line along with requisite proofs including Degree Certificate, detail marks card of all professional examinations and certificate of registration with Punjab Medical Council or with any other duly constituted Medical Council in India.

5. The submission is that though in the advertisement issued there was a cut-off date provided for considering the eligibility of a candidate vis-a-vis his/her age, whereas there was no cut-off date provided for the qualifications or registration with Medical Council. Once the authorities had themselves extended the date for submission of MBBS degree till the date of interview, same relaxation could be given even for getting registration with Medical Council. In the case in hand, the petitioners had completed the entire process and submitted all the documents before 21.1.2013, the date fixed for submission of hard copy of the application. In fact, that date should be taken as the cut-off date for considering the eligibility condition and not the date upto which the applications were to be submitted on-line, as ultimately if any one submits an application on line and does not furnish copy thereof in terms of the documents submitted by him along with hard copy of the application, he is not eligible. The fact remains that eligibility is considered only

if hard copy of the application along with all the supporting documents are submitted. He further submitted that in Punjab Civil Medical (State Service Group "A") Rules, 1972 (for short "the Rules"), it has been provided that no person shall be appointed to service by direct recruitment, unless he possesses degree of MBBS or MD and is registered with Punjab Medical Council or with any other duly constituted Medical Council in India. Registration with a Medical Council requires fulfilment of certain conditions. Only on completion of the formalities, the registration can be granted. Mere submission of application may not be sufficient as the certificate of registration would be the relevant document.

6. Learned counsel further submitted that in the advertisement initially issued, the only requirement was that a candidate should be registered with Medical Council. It was nowhere mentioned that registration should be permanent. It was only in the public notice issued on 25.2.2013 that the word "permanent registration" was mentioned. The Rules are also silent in that respect. All the candidates had, in fact, got themselves provisionally registered with Medical Council after they had passed their MBBS professional examination and during the course of their internship training, hence they were otherwise eligible. He further submitted that earlier also, the same issue arose pertaining to appointment to the post of Medical Officer (Dental). In that case, learned counsel for the State had given a concession that even a candidate, who got registration during the pendency of the petition in this court, will also be treated eligible. The submission is that as all the petitioners had fulfilled the eligibility conditions upto 21.1.2013, their candidature be considered.

7. In CWP No. 6756 of 2013, learned counsel for the petitioner submitted that the petitioner in the present case had completed his internship on 7.1.2013, i.e., before the last date fixed for submission of applications even on-line. On completion, he becomes entitled to award of MBBS degree and registration with Medical Council. Even if the same was granted to the petitioner later on, he cannot be declared ineligible on that account as these are formalities to be completed. No examination as such is to be conducted or passed by a candidate for the purpose.

8. On the other hand, learned counsel for the State submitted that in the advertisement initially issued, it was specifically mentioned that the applications were to be submitted on-line by 11.1.2013 and hard copies thereof had to be submitted by 21.1.2013. Even if there is no cut-off date mentioned in the advertisement, the last date for submission of applications is the date for considering the eligibility of the candidate, except the age for which specific condition had been provided in the advertisement, would be the date for submission of application on-line. The submission of hard copy on a later date is only a print out of the application submitted on-line along with supporting documents and receipt for deposit of fee.

9. However, learned counsel did not dispute the fact that vide public notice dated 25.2.2013, while publishing the lists of eligible candidates and the candidates from

whom certain documents were still required, the condition regarding production of MBBS degree was relaxed upto the date of interview and as against submission of registration certificate with Medical Council, even a proof of submission of application till 11.1.2013 was sufficient. It was further submitted that if a candidate submits degree of MBBS, which is dated after 11.1.2013, he was to be considered eligible. For submission of an application with Medical Council for registration, submission of degree was not a pre-requisite.

10. It was further submitted that against 334 posts, 1925 applications were received initially. All the candidates were provisionally declared eligible and were permitted to appear in the screening test. Ultimately, three times the number of vacancies on merits were called for interview.

11. As far as the petitioner in CWP No. 6756 of 2013 is concerned, learned counsel for the State submitted that the petitioner herein had not submitted any document along with the application showing as to whether he had completed his internship or that he had got the registration or even had applied therefor. The degree of MBBS was also not annexed. As the application was lacking in requisite documents, the same was liable to be rejected.

12. Heard learned counsel for the parties and perused the paper book.

13. Before this court proceeds to consider the submissions made by learned counsel for the parties, it would be relevant to refer to the relevant parts of the advertisement inviting applications. The same are extracted below:

General Information

For the Post of Medical Officer (General)

xx xx xx

4.0 ESSENTIAL QUALIFICATIONS

4.1 M.B.B.S.

4.2 Registered with the Punjab Medical Council or with any other duly constituted Medical Council in India; and

xx xx xx

7.0 Submission of Applications Form

7.1 The candidates can ONLY apply by filling Online Application Form, a link of which is available on the website of the Commission www.ppsc.gov.in

7.2 The printout of the filled Online Application Form along with demand draft and relevant documents must reach office of Secretary, Punjab Public Service Commission latest by 5.00 pm on 21st January, 2013.

7.3 The list of self attested certificates that shall be submitted by candidates along with the print out of Online Application Form is as follows:

xx xx xx

3) Degree Certificate

4) Detail Marks Card of all Profs.

5) Certificate of registration with Punjab Medical Council or with any other duly constituted Medical Council in India.

xx xx xx

14. The relevant portions of the public notice issued on 25.2.2013 after declaration of the result of screening test containing lists "A" and "B" pertaining to candidates who were declared eligible and the candidates in whose cases certain information was required are extracted below:

" xx xx xx

2.0 Post scrutiny of the Application Forms by the office of the Commission, two lists of candidates shortlisted for interview are as follows:

(a) List A: (List of Eligible candidates): It is OBLIGATORY for the candidates, who have not submitted the copy of MBBS degree certificate, to bring the same on the date of interview for scrutiny, failing which their candidature will be rejected.

(b) List B: (List of candidates from whom certain documents are required): The candidates are required to submit the following documents to ensure their eligibility.

(i) Copy of Permanent Registration Certificate/Proof of applying for Permanent Registration Certificate e.g. receipt issued by the concerned Medical Council. The certificate/proof should have been issued before 11.1.2013 (i.e. last date of submission of Application)

4.0 The candidates mentioned in List B must submit the relevant documents in the office of PPSC, Patiala latest by 4th March, 2013 (5.00 P.M.). Non-submission of documents shall result in rejection of candidature of the concerned candidates and eligible candidates next in the order of merit shall be called for interview.

Note: No documents shall be accepted after the time and date as mentioned above (i.e. 5.00 P.M. 4th March, 2013).

xx xx xx

15. The relevant provisions of the Rules pertaining to qualifications required for the post are extracted below:

xx xx xx

2. In the Punjab Civil Medical (State Service Group "A") Rules, 1972 (hereinafter referred to as the said rules), for rule 7, the following rule shall be substituted, namely:-

7. Educational and other qualifications.-No person shall be appointed to the Service by direct recruitment, unless he possesses the following educational qualifications and experience:-

(1) M.B.B.S. who shall be appointed as Medical Officer (General);

(2) Holding a Post-Graduate degree in requisite speciality, recognised by the Medical Council of India, who shall be appointed as Medical Officer (Specialist) in that particular speciality;

(3) Registered with the Punjab Medical Council or with any other duly constituted Medical Council in India; and

xx xx xx

16. The definite case of the petitioners in the bunch of petitions except CWP No. 6756 of 2013 is that all the petitioners had the requisite qualifications and the certificates before 21.1.2013, i.e., the last date fixed for submission of hard copy of the application along with the requisite documents and they had submitted the applications upto that date. Though they had completed their course and the internship prior thereto, however, in the process of getting the certificate issued and the registration with Medical Council, some time was taken.

17. In CWP No. 6756 of 2013, the petitioner had applied for registration on 5.2.2013, i.e., after 21.1.2013.

18. The issue sought to be raised by learned counsel for the petitioners is that the cut-off date in the present case should be taken as 21.1.2013, the date upto which hard copy of the application along with the requisite documents was to be submitted. In my opinion, the contention is meritorious if considered vis-a-vis the requirements, as mentioned in the advertisement. After passing professional examination of MBBS, a student is required to undergo internship training. During this period, he is provisionally registered with Medical Council. Further, the Rules require that for direct recruitment, a candidate should have a degree of MBBS or a Post Graduate degree in any medical speciality and registration with Medical Council. Same was the condition laid down in the advertisement issued, where in addition to the degree, detail marks card of all professional examinations and certificate of registration with Medical Council were required to be submitted along with hard copy of the application upto 21.1.2013, but still the Commission granted the concession vide public notice dated 25.2.2013, whereby the candidates mentioned in list "A" were given relaxation for submission of copy of MBBS degree upto the date of interview, whereas the candidates mentioned in list "B" were permitted to submit even the proof of applying for permanent registration upto

11.1.2013 instead of a permanent registration certificate. The aforesaid public notice shows that the conditions laid down in the advertisement or the cut-off date provided therefor were relaxed. All what the petitioners are seeking in the present case is that their eligibility be considered on the last date fixed for submission of hard copy of the application as on that date, they had completed their MBBS and even got registration with Medical Council. All the aforesaid documents were submitted along with the application. Once the candidature of a candidate, who had been issued degree even after that date was to be considered, the petitioners should not be left out.

19. For the reasons mentioned above, in my opinion, the candidates who had submitted all the requisite documents along with hard copy of the application upto 21.1.2013 should be treated eligible and their candidature be considered for appointment, in case they are found to be in merit on the basis of the screening test and other criteria laid down for selection.

20. As far as petitioner in CWP No. 6756 of 2013 is concerned, as the stand of learned counsel for the State is that he had failed to submit the requisite documents along with hard copy of the application, his candidature cannot be considered and his application had rightly been rejected, being incomplete.

21. The writ petitions stand disposed of in the manner indicated above.