

## Mehaboob Razool Vs Director of Health Services and Others

**Court:** High Court Of Kerala

**Date of Decision:** Oct. 5, 1995

**Hon'ble Judges:** K. Sreedharan, J

**Bench:** Single Bench

**Advocate:** M.C. Sen, for the Appellant; M.K. Damodaran and P.C. Sasidharan for Respondents 2 and 3 and C. Vathsalan, for Respondents 4 to 8, for the Respondent

**Final Decision:** Dismissed

### Judgement

K. Sreedharan, J.

Public Service Commission invited applications for the post of Pharmacists Grade II as per notification dated 27th

December 1988. The qualifications required for the post were (1) Pass in S.S.L.C. or its equivalent examination (2) Diploma in Pharmacy and (3)

Registration with Kerala State Pharmacy Council. Last date for receipt of applications for the post was 8th February 1989. Petitioner put in his

application for the post on 6th February 1989. He was allowed to take written test, which was held on 7th September 1991. On the basis of the

marks obtained by him, he was included in the short list published on 4th January 1993. He was called for interview on 10th May 1993. In the

ranked list prepared thereafter, he was included as Rank No. 7. The ranked list came into existence on 9th June 1993. On 6th September 1993,

Ext. P-1 show cause notice was issued to him requiring his explanation as to why his name should not be deleted from the ranked list as he did not

possess the required qualification viz. Registration with Kerala State Pharmacy Council, on the date of his application. He filed Ext. P-2 reply,

where it was averred that he applied for registration from the Kerala State Pharmacy Council on 3rd February 1989 and did get registration on 8th

February 1989, the last date fixed for receipt of applications. But this explanation was not found acceptable to the Public Service Commission. So

his name was deleted from the ranked list. Hence this Original Petition.

2. According to learned Counsel representing the Petitioner, last date fixed for receipt of applications was 8th February 1989. On that day

Petitioner had obtained registration with the Kerala State Pharmacy Council. So, Petitioner had all the requisite qualifications on the last day fixed

for receipt of applications. Further depending on his qualifications, he was allowed to take written test and was interviewed. Basing on his

performance, he was ranked No. 7 in the ranked list, which was published on 9th June 1993. Thereafter, it was unjust on the part of the Public

Service Commission to remove his name from the ranked list on the ground that he was not having requisite qualification on the date of application.

3. Learned Counsel representing the Petitioner placed before me the decisions of the Supreme Court in Mrs. Rekha Chaturvedi (Smt) Vs.

University of Rajasthan and Others, and Dr. M.V. Nair v. Union of India and Ors. J.T. 1933 (1) S.C. 255 and contended for the position that the

crucial date for finding whether a candidate was having requisite qualification for a post is as on the last date for receipt of application. In the above

mentioned cases, their Lordships took the view that in the absence of a fixed date, indicated in the advertisement inviting applications, with

reference to which the requisite qualifications should be judged, the only certain date for scrutiny of the qualifications will be the last date for

making the applications. According to their Lordships, suitability and eligibility has to be considered with reference to the last day for receiving

applications, unless the notification calling for applications itself specifies such a date. In other words, if the notifications do not specify any

particular date with reference to which qualification is fixed, the last date for the receipt of application should be taken as the relevant date for

finding whether the applicant has got the requisite qualification as per the notification or not. In the instant case, notification fixed 8th February 1989

as the last date for receipt of applications. Can that date be considered as the date with reference to which qualification of the candidate is to be

assessed?

4. Notification inviting applications for the post of Pharmacist was subject to the general conditions fixed in Part II of the notification. Part II

contains the relevant rules governing the issue. Rule 19, inter alia stated that qualifications prescribed for a post shall be one acquired by the

candidate before the date of application. It means the relevant date with reference to which the qualification is to be ascertained is the date of

application. So, on the facts of this case, Public Service Commission must be deemed to have fixed a relevant date for ascertaining the qualification

as the date of application. Petitioner put in his application on 6th February 1989. On that day, he did not have the registration with Kerala State

Pharmacy Council.

5. Registrar of Kerala State Pharmacy Council by Ext. P-4 communication dated 3rd May 1993 informed the Petitioner that on account of the

office procedure adopted by the council in granting registration, certificate could be issued only on 8th February 1989 and that it relates back to

3rd February 1989. This communication was relied on by learned Counsel to contend that the Petitioner should be deemed to have secured the

qualification on 3rd February 1989. I am not in a position to accept this argument. Take a case where the council took 10 days time for issuing

certificate on an application submitted on 3rd February 1989. The certificate then issued on 13th February 1989, can never be considered as one

relating back to 3rd February 1989 making the candidate eligible for applying for the post pursuant to the notification dated 27th December 1988.

As per Rule 19 of the General conditions, the candidate must have had registration as on the date of his application. The date of application is a

fixed date as far as the candidate is concerned. In the case of the Petitioner it was 6th February 1989. On that day he had not obtained the

registration from the Kerala State Pharmacy Council. So he was not qualified for the post as per the notification. Viewed in this light, the action of

the Public Service Commission in removing Petitioner"s name from the ranked list is not open to challenge.

6. In view of what has been stated above, I find no merit in this Original Petition. It is accordingly dismissed.