

SUPREME COURT OF INDIA

Union Public Service Commission

Vs.

Shristi Singh

C.A.No.6618 of 2019

(L.Nageswara Rao and Hemant Gupta,JJ.,)

26.08.2019

JUDGMENT

SLP (C) No.14169 of 2019

L.Nageswara Rao,J.,

1. Leave granted.
2. The point that arises for our consideration in this Appeal pertains to the eligibility of the first Respondent for appointment by way of direct recruitment to the post of Drug Inspector in the Central Drugs Standard Control Organisation (CDSCO), Ministry of Health and Family Welfare.
3. The Union Public Service Commission, the Appellant herein, issued Advertisement No.04 of 2015 inviting online applications for recruitment of Drug Inspectors. The requisite qualification for the post of Drug Inspector are:
 - a. Degree in Pharmacy or Pharmaceutical Sciences OR Medicine with specialization in Clinical Pharmacology OR Microbiology from a recognised University OR equivalent.
 - b. Eighteen months' experience in the manufacture of at least one of the substances specified in Schedule 'C' to the Drugs and Cosmetics Rules, 1945; OR Eighteen months' experience in testing of at least one of the substances specified in Schedule 'C' to the Drugs and Cosmetics Rules, 1945 in a laboratory approved for this purpose by the licensing authority.
3. The first Respondent submitted her online application on 16.03.2015. There is no doubt about Respondent No.1 possessing the requisite educational qualifications. In so far as the experience is concerned, the first Respondent submitted two certificates issued by M/s Alpa Laboratories Limited and M/s Mylan Laboratories Limited. The first certificate

showed that the first Respondent had experience in testing as she worked in M/s Alfa Laboratories from 07.09.2012 to 05.03.2014. The certificate issued by M/s Mylan Laboratories was to the effect that the first Respondent worked as Analyst in quality control during the period 13.04.2014 to 19.03.2015.

4. The first Respondent qualified in the combined computer-based recruitment test. Initially, 496 candidates were called for interview by a notice dated 16.09.2015 for selection to 147 posts of Drug Inspector which were advertised. In the said list the name of the first Respondent was not there. Thereafter, another notice was issued by the Appellant on 08.04.2016, calling 723 candidates for interview. The first Respondent was amongst those who were asked to attend the interview. She submitted the relevant documents regarding the requisite experience. By a communication dated 08.07.2016, the candidature of the first Respondent was cancelled on the ground that she lacked the necessary experience in testing of substances specified in Schedule 'C' in a laboratory approved by the licensing authority.

5. The non-consideration of the first Respondent for selection to the post of Drug Inspector was challenged in the Central Administrative Tribunal, Jabalpur Bench. By an interim order dated 05.08.2016, the Tribunal directed the Appellant to permit the first Respondent to participate in the selection. As the final result was declared during the pendency of the OA, the Tribunal passed an order making the declaration of result subject to the outcome of the Original Application.

6. The Tribunal finally allowed the Original Application and directed the Appellant to interview the first Respondent and in case she secures a score which is more than the last selected candidate in her category she was permitted to be recommended for appointment.

7. Aggrieved by the judgment of the Tribunal, the Appellant filed a Writ Petition in the High Court which was dismissed. Hence, this appeal.

8. The controversy in the present appeal is regarding the fulfillment of the condition of experience as required by the Advertisement. As stated earlier, the requisite experience for appointment as Drug Inspector is 18 months in the field of quality control and in testing of drugs prescribed in Schedule 'C' and 'C-1' in the Drugs and Cosmetics Rules. Certificates that were produced by the first Respondent which were issued by M/s Alfa Laboratories and M/s Mylan Laboratories are placed on record. The certificate issued by M/s Mylan lab on 17.04.2016 would disclose that the first Respondent was involved in different stages of testing in quality control unit of the plant. She was also involved in testing of one of the drugs specified in Schedule 'C' and 'C-1' of the Drugs and Cosmetics Rules. According to the certificate, the first Respondent worked for two years from 13.04.2014 in M/s Mylan Laboratories. The requirement of 18 months', according to the Advertisement is for a period of two years prior to 01.03.2015. As the certificate does not satisfy the requirement of the Advertisement in view of the period from 13.04.2014 to 01.03.2015 being less than 18 months, it was rightly not taken into consideration. The other certificate that was produced by the first Respondent before the Appellant was issued by M/s Alfa

Laboratories on 05.03.2014. The first Respondent was certified to have worked with M/s Alfa Laboratories from 07.09.2012 to 05.03.2014 in the quality control department. It was mentioned in the certificate that the first Respondent was carrying on all activities relating to quality control department such as RM/PM sampling and analysis as well as water sampling and testing, documentations, online quality checks, training etc. there is no mention of the first Respondent having experience in testing Schedule 'C' drugs. The candidature of the first Respondent was rejected on the ground that the said certificate issued by M/s Alfa Laboratories could not satisfy the eligibility conditions mentioned in the Advertisement. Yet another certificate dated 17.03.2015 issued by the M/s Alfa Laboratories was relied upon by the first Respondent. According to the said certificate, the first Respondent worked for 18 months and had experience in testing of drugs specified in Schedule 'C' and 'C-1' of the Rules. This certificate discloses that the job done by the first Respondent was only for experience purpose without any remuneration.

9. In the reply filed to the Original Application in the Central Administrative Tribunal, the Appellant stated that the certificate issued by M/s Alfa Laboratories did not mention about Schedule 'C' drugs. As stated earlier, the first Respondent produced two certificates issued by M/s Alfa Laboratories. The first one was issued on 05.03.2014 in which there was no mention of her experience in testing Schedule 'C' drugs. The second certificate is dated 17.03.2015 which refers to her experience in testing Schedule 'C' and 'C-1' drugs. It is relevant to note that the first Respondent submitted her online application form on 16.03.2015 and the second certificate issued by M/s Alfa Laboratories is dated 17.03.2015.

10. The Tribunal was not impressed with the prevaricating stands of the Appellant in rejecting the candidature of the first Respondent. Submissions made on behalf of the Appellant relating to M/s Alfa Laboratories not being a duly licensed firm and the experience certificate not mentioning Schedule 'C' drugs were rejected. The contention of the Appellant that the certificate dated 17.03.2015 cannot be relied upon as the experience was on a non-remunerative job was also not accepted by the Tribunal. The High Court affirmed the findings recorded by the Tribunal on the ground that the Appellant did not take a firm stand about the actual reason for rejection of the first Respondent's candidature.

11. The certificate dated 05.03.2014 issued by M/s Alfa Laboratories was the only certificate produced by the first Respondent before the Appellant. According to the learned counsel for the Appellant, the second certificate dated 17.03.2015 showing the experience of the first Respondent in testing Schedule 'C' drugs was not produced along with the certificate dated 05.03.2014. In any event, the said certificate which showed the experience of the first Respondent for 18 months in testing Schedule 'C' drugs on a non-remunerative job is doubtful. The said certificate was issued a day after the first Respondent has submitted her online application on 16.03.2015. It is relevant to note that the certificate dated 17.03.2015 discloses that no salary was paid to the first Respondent for the work done was only for experience purpose. The decision of the Appellant that the first Respondent does not fulfil the eligibility criterion is correct. The Tribunal and the High Court ought not to have interfered with the said decision.

12. In view of the above, we are not in agreement with the judgment of the Central Administrative Tribunal which was affirmed by the High Court in favour of the first Respondent. We set aside the judgment of the High Court and allow this appeal.