

In the High Court of Judicature for Rajasthan
Jaipur Bench
**

Civil Writ Petition No.14419/2008
Bhagwan Singh **Versus** State & (2) Ors.

Date of Order :: 22/12/08

Hon'ble Mr. Justice Ajay Rastogi

Mr. Vigyan Shah for Mr. Mahendra Shah, for petitioner

Instant petition has been filed with the grievance that despite the petitioner having qualified in screening test held for the post of Unani Chikatsak pursuant to advertisement dt. 20/09/07 (Ann.1), his candidature has not been fairly considered.

Petitioner is a member of Scheduled Caste category. Against 30 vacancies of Unani Chiktsak notified vide advertisement dt.20/09/07 (Ann.1), 12 vacancies were reserved for members of Scheduled Caste category. He claiming himself as eligible applied for a post of Unani Chiktsak reserved for SC category and appeared in the screening test in which amongst others, he is one of applicants who qualified, as well; but was not allowed to appear in the interview held on 18/12/08 on the premise that on the date of interview, he failed to furnish his degree of BUMS (Unani).

However, minimum qualification for the post of Unani Chiktsak, as per advertisement

(Ann.1) under Rajasthan Ayurvedic, Homeopathic & Unani Service Rules, 1973 ("Rules, 1973") is of having possessed a degree of Bachelor of Unani Medicine & Surgery ("BUMS"), which undeniably petitioner is not possessing on the date of interview as his internship is going to be completed in February, 2009.

In the advertisement (Ann.1), it was specifically notified that the incumbent, if qualified in the screening test, has to furnish requisite degree of academic qualification viz. BUMS (Unani) on the date of interview, itself. Interviews were held on 18/12/08 when petitioner failed to furnish his degree of BUMS (Unani) as asked for vide letter dt.11/11/2008 (Ann.7), he was not permitted to appear in the interview. At this stage, legal notice dt.08/12/08 (Ann.8) was sent to concerned authorities seeking relaxation in the requirement of internship training and to treat him eligible for the post of Unani Chiktsak. Same kind of representation dt. 18/12/08 (Ann.9) was also sent to the Secretary, RPSC, for permitting him to appear in the interview held on 18/12/08.

Counsel inter-alia submits that when lesser number of persons against reserved category of Scheduled Caste were considered for

the post of Unani Chiktsak on the date of interview held on 18/12/08 and petitioner was one of reserved category applicants of Scheduled Caste duly qualified in the screening test, it was not justified for respondents still to disqualify him from participation in the process of selection pursuant to advertisement (Ann.1). Submission made by Counsel is without any merit for the reason that all the applicants who participated in process of selection pursuant to advertisement (Ann.1) were called upon to furnish their degree of BUMS (Unani) having completed their academic qualification on the date of interview (18/12/08), on which date, undeniably petitioner failed to complete his internship of degree of BUMS (Unani) which is certainly an integrated course; as such he was considered to be in-eligible on the date of interview. In the opinion of this Court, the RPSC has not committed any error in not permitting him to appear in participation of process of selection pursuant to advertisement (Ann.1).

As regards claim of relaxation U/r 37 of Rules, 1973, suffice it to say that one can claim relaxation only in respect of age or requisite experience, and not for internship,

which is an integral part of course of requisite academic qualification for the post of Unani Chiktsak, (degree of BUMS-Unani), which makes an applicant eligible. R.37 of Rules, 1973, as referred to by Counsel has not application in the facts of instant case.

Consequently, writ petition fails and is hereby dismissed.

(Ajay Rastogi), J.