

**HIGH COURT OF TRIPURA  
AGARTALA**

WP(C) No. 66 of 2013

**Sri Tarun Kanti Ghosh**, son of late Harimohan Ghosh, resident of RIPSAT Quarter Complex, Type IV/B, Kumaritilla, P.O. Abhoynagar, P.S. East Agartala, Sub-Division: Agartala, District: West Tripura.

..... **Petitioner(s)**

**V e r s u s**

1. **The State of Tripura**, represented by the Chief Secretary, Government of Tripura, in the Health & Family Welfare Department, having his office at Secretariat Complex, Gorkhabasti, P.O. Kunjaban, P.S. East Agartala, Sub-Division: Agartala, District: West Tripura.
2. **The Secretary**, Health & Family Welfare Department, Govt. of Tripura, having his office at Secretariat Complex, Gorkhabasti, P.O. Kunjaban, P.S. East Agartala, Sub-Division: Agartala, District: West Tripura.
3. **The Secretary**, Finance Department, Government of Tripura, having his office at Secretariat Complex, Gorkhabasti, P.O. Kunjaban, P.S. East Agartala, Sub-Division: Agartala, District: West Tripura.
4. **The Director**, Health & Family Welfare Department, Govt. of Tripura, having his office at Pandit Nehru Complex, Gorkhabasti, P.O. Kunjaban, P.S. East Agartala, Sub-Division: Agartala, District: West Tripura.
5. **The Principal**, Regional Institute of Pharmaceutical Science and Technology, having his office at Abhoynagar, Kumaritilla, P.O. Kunjaban, P.S. East Agartala, Sub-Div. Agartala, District: West Tripura.

.....**State-respondents**

6. **The All India Council of Technical Education**, represented by its Secretary, having his office at Indira Gandhi Sports Complex, I.P. Estate, New Delhi;110002.

.....**AICTE- Respondent**

7. **Dr. (Mrs.) Sabita Pal (Datta)**, daughter of late Jaladhar Chandra Pal, wife of Sri Binay Krishna Datta, resident of 79 HGB Road, Melarmath, P.O. Agartala, P.S. West Agartala, District: West Tripura Pin- 799001.

**..... Private-respondent**

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For Petitioner(s) : Mr. Somik Deb, Advocate,  
For Respondent(s) : Mr. D. Sharma, Addl. G.A.

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**HON'BLE THE CHIEF JUSTICE MR. AJAY RASTOGI**

**Order**

**31.08.2018**

The petitioner's complaint in the instant petition is that although he was initially appointed on the recommendation of The Tripura Public Service Commission (TPSC for short) as Assistant Professor in Pharmacognosy vide order dt. 19<sup>th</sup> May, 1997, to teach diploma course but as he is holding the qualifications to teach degree courses also, after issuance of memorandum dt. 4<sup>th</sup> March, 1998, when the respondents started teaching degree and diploma courses in the Regional Institute of Pharmaceutical Sciences and Technology (RIPSAT for short), Tripura. On the aid of his qualifications he was asked to teach degree classes and honorarium was paid but that was later on withdrawn by the respondents claiming appointment by absorption as the post of Assistant Professor to teach B. Pharma Degree courses.

[2] The facts in brief which may be relevant for the purpose are that the petitioner obtain M-Pharma, Master's Degree in Pharmacology from Mangalore University and the final degree was awarded to him on 24<sup>th</sup> January, 1994 and he has been graded in the excellent category and according to the certificate which is on record of Mangalore University (**Annexure-RR.3(C)**), there is a note indicating key to grades and those who have secured 75% of the total of dissertation and viva put together they have been categorized as excellent and on the strength of which learned counsel submits that he has secured M. Pharma with 1<sup>st</sup> Division holding qualifications to teach degree classes as there was no degree classes at the time of his initial appointment and that has been introduced at a later point of time and that gives him a right to appointed by absorption to teach B.Pharma degree classes in the Regional Institute of Pharmaceutical Sciences and Technology, Tripura, of which he is a teaching member.

[3] It is not disputed that at the relevant time when the petitioner entered into service, there was only diploma courses run by the institute and by a policy decision degree courses was introduced subsequently and at that time he was assigned to teach classes of B. Pharma also on an honorarium of Rs. 60/- per lecture but that was withdrawn by subsequent order dt. 9<sup>th</sup> January, 1999.

[4] Counsel for the petitioner submits that when the petitioner is holding the academic qualification to teach the classes of B. Pharma and at one point of time he was permitted to teach and paid honorarium pursuant to order dt. 4<sup>th</sup> March, 1998, there is a reason to believe that the petitioner be absorbed as Assistant Professor in B. Pharma for all practical purposes.

[5] Counter affidavit has been filed by the respondents and his minimum basic qualification of M. Pharma with 1<sup>st</sup> Division has been disputed but from the available records and particularly **Annexure-RR/2** of his M. Pharma degree awarded to him by Mangalore University he has been finally graded to be excellent and excellent has been key to grade is of 75% of total dissertation and viva put together is being grade 'excellent'. Taking note thereof, at least this Court can record a finding that the petitioner is eligible holding qualification of M. Pharma with 1<sup>st</sup> Division according to the conditions of eligibility laid down by the respondents under its notification dt. 24<sup>th</sup> April, 2014 (**Annexure-RR/4**) to the post of lecturer in B. Pharma courses as indicated in table-E/4, the relevant extract is quoted ad-infra:

Table-E-4 MINIMUM QUALIFICATION AND EXPERIENCE PRESCRIBED FOR TEACHING POST INI DEGREE LEVEL TECHNICAL INSTITUTIONS PHARMACY DISCIPLINE			
Cadre	Qualification	Experience	Qualification & Experience for candidates from Industry & Profession
Lecturer	First Class Degree in appropriate branch of specialization in	No minimum requirement	

	Pharmacy		
Assistant Professor	Ph.D degree (with first class either at Bachelor's Master's level in the appropriate branch of specialization in Pharmacy	3 years experience in Teaching/Industry Research at the level of Lecturer on equivalent	Candidates from Industry/ Profession with First Class Master's degree in appropriate branch of specialization in Pharmacy and professional work which is significant and can be recognized as equivalent to Ph.D degree and with 5 years experience would also be eligible.

[6] The defence of the respondents is that after the B. Pharma courses were introduced, the post of Lecturer came to be advertised by the TPSC vide advertisement No. 6/2000 for lecturer B. Pharma for degree courses and the petitioner as one of the candidate also participated in the selection process but he was not found suitable and from the record it reveals that three candidates were found suitable who had participated along with the petitioner and appointed as lecturer in degree courses namely Sri. Biplab Dey, Smt. Sabita Pal (Datta) and Sri. Rishi Raj Chhetree which is indicated from the documents placed by the petitioner record at Page-36.

[7] Counsel for the respondents further submits that the petitioner has failed to qualify in the selection process initiated by the commission pursuant to advertisement No. 6/2000 at least he has no right to claim his absorption as lecturer B. Pharma degree courses merely on the basis of his academic qualifications and in the absence of any right being infringed he

is not entitled to claim for issuance of *writ of mandamus* for his absorption u/Art.226 of the Constitution of India.

[8] I have heard counsel for the parties and with their assistance perused the material available on record.

[9] It remain indisputed that the petitioner is holding the qualification of M. Pharma with 1<sup>st</sup> Division for which documentary evidence is on record but he was initially appointment through TPSC on the post of Assistant Professor, Pharmacy to teach diploma courses vide order dt. 19<sup>th</sup> May, 1997 and at a later stage the Govt. under its policy decision introduced B. Pharma degree courses also in the Regional Institute of Pharmaceutical Sciences and Technology, Tripura and at one point of time those who are qualified to teach degree classes they were paid Rs. 60/- as honorarium as reveals from the order dt. 4<sup>th</sup> March, 1998 but it was later on withdrawn by the Govt. of Tripura vide order dt. 9<sup>th</sup> January, 1999 (**Annexure-P/5**) and it appears that the Govt. took a decision to hold regular selection for the post of lecturer B. Pharma degree course and accordingly an advertisement No. 6/2000 came to be notified inviting applications from the eligible candidates to participate in the selection process. Indiputedly, the petitioner had participated along with other eligible candidates but unfortunately found unsuitable for the post of lecturer B. Pharma degree courses and three candidates who were found suitable, their names have been referred to above

one of them has been impleaded as pro-forma respondent No. 7.

[10] It is not disputed that those who are working as lecturer in B. Pharma degree courses, they were appointed through an advertisement No. 6/2000 and it is not the case of the petitioner that lecturers who were earlier teaching diploma courses prior to the degree courses being introduced under the policy decision of the Govt. on the strength of academic qualifications are appointed or absorbed as lecturer to teach B. Pharma Degree classes and this fact can be ruled out for the reason that the Govt. immediately after the B. Pharma degree courses were introduced came out with an advertisement No. 6/2000 to make regular selections and the petitioner had participated found unsuitable.

[11] The question emerges if the suitability of the petitioner has been once adjudged by the TPSC and has not found him suitable still it is open to claim absorption as lecturer B. Pharma degree courses on the strength of qualifications, this Court is of the considered opinion that merely qualification does not confer right to seek appointment or absorption as the case may be, unless his suitability is adjudged either by a selection/screening committee under the policy of the Govt. constituted under the relevant service rules.

[12] Submission of counsel for the petitioner that he is entitled for absorption on the strength of his qualification, in the

opinion of this Court is without substance for the reason that holding minimum qualification gives him a right to participate in the selection process but unless his suitability is being adjudged by a committee constituted either by the Screening Committee or in the open selection, no one can claim appointment or absorption as prayed for by the petitioner on the strength of qualification.

Consequently, in my considered view, the petition is without substance and accordingly dismissed. No costs.

**CHIEF JUSTICE**



*A.Ghash*

*Certificate:- All corrections made in the judgment/order have been incorporated in the judgment/order.*