

Advt. No. 9/95  
Homeopathic  
Doctor

11

N. S. Bch. (11-5)

29/5/97  
30/8/04  
30/8/04

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Serial No. of Order	Date of Order	ORDER WITH SIGNATURE	Office notes as to action (if any) taken on order
2-	18.12.2003	<p>IN THE HIGH COURT OF JUDICATURE AT PATNA CWJC No. 7139 of 1999 Jai Prakash Sharma Vrs State of Bihar &amp; ors</p> <p>For Petitioner: M/s S.P. Mukherjee &amp; Gyanand Roy For State : Mr Ranjan Kumar JC to SC II For BPSC : Mr Kaushal Kumar Jha</p> <p>---</p> <p>This writ petition on behalf of the sole petitioner has been filed seeking direction upon the Bihar Public Service Commission (in short, the Commission) to recommend him for appointment on the post of Homeopathic Doctor. As a matter of fact, the petitioner along with others was recommended for appointment on the said post, the recommendation was later withdrawn on the ground that he did not possess the internship qualification. It is relevant to mention here that this was pursuant to interim order of this Court dated 12.1.1999 in CWJC No. 2531/98 (Bihar Unemployed Homeopathic Doctors association Vs State of Bihar) and analogous cases.</p> <p>After hearing Counsel for the parties at length it appears that the controversy centres round the Internship qualification for appointment on the post of Homeopathic Doctor. An advertisement, being Advt. no. 9/95, was issued by the Commission for appointment of 83 Homeopathic Doctors under different categories. In the advertisement, the essential qualifications were mentioned as:-</p>	



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		<p>(i) Four years diploma from a recognised University or Board in Homeopathic System of Medicines; and</p> <p>(ii) Internship experience certificate granted by the central Council for Homeopathic Medicine.</p> <p>The case of the petitioner is that pursuant to the letter of the State Government dated 1.8.1995 the Commission issued corrigendum deleting the qualification of Internship certificate/experience and therefore it no longer remained an essential condition for appointment on the post of Homeopathic Doctor. Copy of the Corrigendum appears at page 62 of the brief, from perusal of which it appears that the only change brought about in the qualification was that the candidate could have either four years diploma or degree from a recognised University or Board in Homeopathic System of Medicine. To same effect is the counter affidavit of the Government. Thus, the essential qualification for appointment being two fold; namely four years diploma qualification in Homeopathic System of Medicine by a recognised University or Board and Internship, the second qualification remained as it was and therefore if the petitioner did not possess the Internship experience/certificate he could not be regarded as eligible for appointment in terms of the advertisement.</p> <p>It was submitted on behalf of the petitioner that the petitioner acquired the requisite qualification/certificate later and</p>	

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therefore he cannot be treated as ineligible for appointment. The submission has been noticed to be summarily rejected for the reason that such acquisition of experience/certificate was later than last date of submission of the applications pursuant to Advt. no. 9/95 which must be regarded as the cut off date. It is well settled that acquisition of qualification after cut off date is of no avail to the candidates for the purpose of eligibility.

As indicated above, the moot question for consideration is whether for appointment on the post of Homeopathic Doctor a candidate should have Internship experience/certificate. This indeed is the theme of the aforementioned writ petitions by the Bihar State Unemployed Homeopathic Doctors Association (CWJC No. 2531/98). From perusal of the record of that case it appears that the Court had earlier given a blanket stay on all appointments on the post pursuant to the recommendation of the Commission, on 9.4.98. Later said order was modified on 12.1.99 in the following terms:-

The respondents shall be at liberty to make appointments of Homeopathic Doctors on the basis of selection made by the Bihar Public Service Commission pursuant to Advertisement no 9/95, subject to the result of these writ petitions. This fact shall be noted in the appointment orders of the respective candidates. However, this interim order will be available only to such candidates who

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possess the requisite internship qualifications, vide condition no. 2 of of the educational qualifications mentioned in the advertisement. The Commission shall, accordingly, submit a revised merit list of selected candidates, if necessary after making proper verification that the selected candidates do possess the requisite internship qualification.

It was in the light of aforesaid interim order that the Commission send revised merit list in which petitioner's name did not find place. The action of the Commission being pursuant to the order of this Court in writ petitions which are still pending, it is not possible to grant any relief to the petitioner as prayed for.

In the result, the petition stands dismissed.

Snkumar/-

*Sd/- S. N. Jha, J.*

**CERTIFIED TO BE TRUE PHOTO COPY**  
*Ramesh Kumar*  
 For Joint Registrar (A) 16-8-2024  
 Patna High Court  
 Authorised U/S 76 Act 1 of 1950

*Suhil Kumar*  
 16-8-2024

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