



IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

213

CWP-8291-2021 (O&M)

Date of decision: 20.02.2025

Amit Kumar

...Petitioner

VERSUS

Haryana Staff Selection Commission and others

...Respondents

**CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ**

Present :- Mr. Kuldeep Sheoran, Advocate for the petitioner(s).

Mr. Tapan Kumar, DAG Haryana.

Mr. Brijender Kaushik, Advocate for respondent No.2.

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**VINOD S. BHARDWAJ, J. (Oral)**

1. Challenge in the present petition is to the result dated 19.03.2021 to the extent the petitioner had been not selected for the post of Pharmacist advertised vide Advt. No.15/2019 dated 07.09.2019 despite the petitioner having secured more marks.

2. The grievance espoused by the petitioner is that the respondent-authorities have not given him the benefit of the marks for experience despite the requisite documents having been uploaded by him in support of his claim and resultantly, the person lower in merit has been given appointment while the claim of the petitioner has been ignored.

3. Learned counsel appearing on behalf of the petitioner contends that the respondent-Commission had issued an Advt. No.15/2019 dated 07.09.2019 advertising 4322 posts of various Departments/Corporations/



Boards including 42 posts of General Category Pharmacist. Being duly eligible, the petitioner submitted an application for consideration against the said post. The copy of the application form as uploaded by the petitioner is attached as Annexure P-2. In the column of experience, the details required to be furnished by an applicant, the petitioner had specifically mentioned that he has 05 years 10 months and 11 days experience with National Health Mission, Panipat which is a Government Scheme/Project. The relevant part thereof is extracted as under:-

“xxxxx

***Experience Details***

<i>Organisation</i>	<i>Deptt./Corp./ PSU/Others</i>	<i>From Date (dd/mm/yyyy)</i>	<i>To (dd/mm/yyyy)</i>	<i>Experience (In Months)</i>
<i>NHM Panipat</i>	<i>Govt.</i>	<i>21/11/2013</i>	<i>02/10/2019</i>	<i>5 years, 10 months, 11 Days</i>

xxxx

*Scanned copy of all documents showing Essential/Higher qualification, experience etc. on which basis candidate claim marks.* [Click here to view document](#)

xxxxx”

4. He draws the attention of this Court towards the experience certificate dated 24.06.2019 issued by the Dy. Civil Surgeon, Panipat, which is extracted as under:-

**“Experience Certificate**

1. This is to certify that Shri/Smt./Ms/Kumari Amit Kumar Son/daughter/wife of Shri Sukhvir Singh resident of H.No. 742 village/town Mandi Tehsil Israna District Panipat of Haryana State/Union Territory has been serving as



CWP-8291-2021 (O&M)

Pharmacist (RBSK) (Complete nomenclature of the post in the office of NHM, Panipat (HARYANA) (Department/Board/Corporation/Company/Statutory Body/Commission / Authority of Government of Haryana or any State Government or Government of India.)

2. The period of engagement was from 21.11.2013 to 24.06.2019 and the completed years and months are 5 years, 7 months (years & months)
3. The EPF account no. (if any) is / was 101011386481

Place: Panipat sd/-  
Date: 24.06.2019

5. It is contended by the learned counsel for the petitioner that as per the terms and conditions of the advertisement, 0.5 marks were to be awarded for experience of one year or part thereof exceeding six months. The criteria prescribing marks for the experience is extracted as under:-

**“d. Experience:**

*One-half (=0.5) mark for each year or part thereof exceeding six month of experience, out of a maximum of sixteen years, on the same or a higher post in any Department/Board/Corporation/Company/Statutory Body/Commission/ Authority of Government of Haryana. No marks shall be awarded for any period less than six months.*

*(A maximum of 8 marks)*

**Note:-** No applicant shall be given more than 10 marks for



213

*CWP-8291-2021 (O&M)*

*socio economic criteria and experience under any circumstances.”*

6. It is submitted by the learned counsel for the petitioner that the petitioner appeared in the written examination conducted by the respondents on 31.01.2021 against Roll No.31008014. Carbon copy of OMR answer sheet was made available to the candidates. The petitioner scored 73 marks (as per his evaluation) in the written examination and was also entitled to 3 marks for experience on completion of more than 5 years and 7 months and hence, his total score works out to 76 marks. The petitioner was declared successful in the written examination and was called for document verification. He appeared before the respondent-authority for screening of documents and that no fault of any nature whatsoever was pointed out by the Scrutiny Committee on 08.03.2021 when the documents of the petitioner were verified. The final result was thereafter published by the respondents as per which the cutoff marks for general category were 76, while the waiting list cutoff for general category was 74. The petitioner was not selected despite securing 76 marks. A detailed representation was hence submitted by the petitioner, however, no action was taken thereupon. Consequently, the instant writ petition has been filed.

7. He further submits that at the time of scrutiny of documents, the petitioner had also submitted a fresh experience certificate that was again issued by the office of the Civil Surgeon on 12.03.2020. The said experience certificate is extracted as under:-



**“Experience Certificate**

***Dispatch No. NHM/PNP/2019-20/1983 Dated: 12/03/2020***

1. *This is to certify that Shri/Smt./Ms/Kumari Amit Kumar Son/daughter/wife of Shri Sukhvir Singh resident of H.No. 742 village/town Mandi Tehsil Israna District Panipat of Haryana State/Union Territory has been serving as Pharmacist (RBSK) (Complete nomenclature of the post in the office of NHM, Panipat (HARYANA) (Department/Board/Corporation/Company/Statutory Body/Commission / Authority of Government of Haryana or any State Government or Government of India.)*
2. *The period of engagement was from 21/11/2013 to 27/12/2019 and the completed years and months are 6 years & 1 month*
3. *The EPF account no. (if any) is / was 101011386481*

*Place: Panipat*

*sd/-*

*Date: 12.03.2020*

8. He contends that the particulars mentioned in the earlier experience certificate dated 24.06.2019 as well as subsequent experience certificate dated 12.03.2020 when matched with the details filled in by the applicant at the time of filling of the application form fully corroborate the experience as also the date of appointment as well as place of appointment of the petitioner for the entire duration. The respondent-authorities, even though, do not dispute the claim made by the petitioner of having served as a Pharmacist in the NHM Panipat and the experience certificate being legal



and valid have still not given the benefit to the petitioner and have held the same to be invalid.

9. Learned State counsel refers to the reply filed and argues that even though the factual matrix as regards the petitioner having submitted his application or having appeared in the written examination alongwith the marks claimed by him to have been secured in the written examination are not in dispute. He, however, contends that as per the instructions issued to the candidates, all the qualifications/eligibility conditions possessed by a candidate as on cutoff date had to be uploaded. The relevant instructions relied upon by the respondent-State are reproduced herein after below:-

“XXXXXX

*"1. Candidates who do not fulfill the qualifications/eligibility conditions on cutoff date, their application shall not be uploaded by the online application system. All the Certificates/ Documents relating to educational qualification/ eligibility conditions and Socio-Economic Criteria etc. will be determined with regard to last date fixed to apply online applications also called as closing date i.e. 09.10.2019 as given in the advertisement."*

XXXXXX

*"3. Candidates applying for a post must ensure that they fulfill all the eligibility conditions on the last date of application.*

*4. If on verification at any stage starting from*



*submitting application form till appointment and any time even after appointment, it is found that any candidate does not fulfill any of the eligibility condition or it is found that the information furnished is false or incorrect, his/her candidature will be cancelled and he/she will also be liable to be criminally prosecuted. This is irrespective of whether the candidate was benefitted by furnishing the false or incorrect information in his/her application."*

xxxxxx

*"2. Claim under the socio economic criteria, if any, shall be admissible to those candidates only, who would fill the details of the requisite certificate i.e. name of issuing authority, date of issue and reference no. etc. and also upload the requisite valid original certificate/document along with their application in support of their claim failing which, no certification benefits shall be considered after last date of filling online applications."*

*"8. Qualifications and other term and conditions of eligibility will be determined with regard to the last date fixed for receipt of online applications also termed as closing date."*

xxxxxx

*3.2 Scrutiny of Documents:- Only those document which are uploaded by the candidates shall be considered. If there is any variation in the document uploaded and produced at the*



*time of scrutiny candidature shall be liable to be cancelled. If any application is found without uploading requisite supporting documents and other relevant information, the candidate himself/herself shall be responsible for that and his/her candidature would be liable to be cancelled due to lack of proper or correct documents/information.”*

10. It is vehemently argued that the petitioner was not selected in the general category as 03 marks for experience as are being claimed by him could not be awarded because the experience certificate which was submitted by the petitioner at the time of scrutiny of documents on 12.03.2020 had been issued to him after the cutoff date as the last date for submission of the online application form was 09.10.2019. It is stated that the petitioner has attached two experience certificates with the present writ petition one of which is dated 12.03.2020 and the other is prior to the cutoff date i.e. 24.06.2019 and that the later certificate being a scanned copy, has no authenticity. The petitioner did not produce the original of the said experience certificate at the time of scrutiny of the documents and hence, he was not awarded any marks for the experience. It is thus contended that there was no illegality in the action taken by the respondents.

11. Learned counsel appearing on behalf of private respondent No.2, however, submits that the said respondent had applied under BC-A Category and on account of the petitioner having not been found eligible by the respondent-Commission, his selection was recommended against the general category, on his merit being higher than the last selected candidate



under the general category. He contends that in the event the claim of the petitioner is to be accepted, his right to be continued against the appointment albeit under BC-A category should be protected.

12. I have heard the learned counsel appearing on behalf of the respective parties and have gone through the documents appended with the instant petition with their able assistance.

13. Although an argument was advanced by the learned State counsel that the petitioner had not appended any certificate of experience alongwith the application form, however, it is evident from the reply filed by the respondent-State that they have themselves appended a copy of the experience certificate appended by the petitioner and certified by the respondents themselves. Hence, the plea of the respondent-State that no experience certificate was appended at all deserves to be rejected. Additionally, the respondent-State has also claimed that the original document was not produced for verification and only a scanned copy thereof had been uploaded, the same also defeats their argument that no certificate had been appended.

14. Now adverting to the second argument that at the time of document verification, the petitioner had brought the second certificate which is dated 12.03.2020 and the same having been issued after the cutoff date, the same could not be taken into consideration.

15. For appreciation of the said argument, the conditions as mentioned in the advertisement and relied upon by the respondent-State are required to be adverted to. So far as the condition No.1 of the relevant



instructions is concerned, the same provides that a candidate is required to fulfill the eligibility condition on the cutoff date and the documents in support thereof shall be determined with regard to the last date fixed to fill the online application. Hence, the eligibility condition for availing the benefit of marks of experience was the acquisition of such experience as on 09.10.2019 to claim the benefit of 03 marks for 06 years of experience with every period in excess of 06 months being computed as 01 year. The petitioner had, as on the date of submission of application in October-2019 mentioned about having possessed experience of 05 years 10 months and 11 days from 21.11.2013 to 02.10.2019 i.e. the date when the application form was submitted by him. The certificate which has been appended by the petitioner alongwith the application form has also been attached by the respondents alongwith the reply as Annexure R-1/2 dated 24.06.2019, which specifically gives all the particulars that the petitioner was engaged as a Pharmacist with NHM Panipat on 21.11.2013 and had been working till the date of issuance of certificate and had possessed 05 years and 07 months of experience. Since the said certificate was dated 24.06.2019 and the application form was submitted on 02.10.2019, hence, a period of nearly more than 03 months has been added by the petitioner to the said experience certificate and the actual declaration of the experience possessed by him has been made in the application form. The addition of the said period, after taking into consideration the last date cannot be said to be acquisition of an eligibility beyond the cutoff date more so when a period beyond 06 months was to be computed as 01 year and as on the date of issuance of the said



certificate i.e. 24.06.2019, the petitioner already had an experience of 05 years 07 months, which in any case would have entitled him to a benefit of 06 years totaling to 03 marks towards experience. Subsequently, at the time of scrutiny of documents, the petitioner produced a new experience certificate which was issued on 12.03.2020 which mentioned about the experience upto the date of 27.12.2019. The details/particulars of the petitioner are in any no way at variance.

16. There is also no dispute that the experience as claimed by the petitioner was actually not acquired or that there is any forgery in the experience certificate relied upon by the petitioner. All the material particulars have remained constant including the EPF account number which conclusively establishes that the experience certificate related to the petitioner. Condition No.3 of the relevant instructions prescribed that the candidate must possess the eligibility condition on the last day of application. It is not in dispute that the actual and correct details had been filled up by the candidate, however, the respondents have denied the benefit of giving marks of experience to the petitioner for failure to produce the original of the same certificate notwithstanding that there is no dispute being to the experience of the petitioner as a pharmacist in NHM Panipat since 21.11.2013.

17. I find that the stand of the respondent-State in linking the mode of proof of a document to eligibility is the cause for the denial of benefit to the petitioner. The said distinction though fine but is clear. The petitioner having established beyond any iota of doubt that he did possess the



experience, for which he is claiming marks, as on the date of submission of application i.e. 02.10.2019 i.e. prior to the cutoff date for submission of application form, was entitled to the benefit thereof. He had appended a scanned copy of the experience certificate issued in his favour, which such copy/experience certificate is not disputed by the respondent-State and is not stated to be a forged document. Hence, it could not be belied, notwithstanding that a subsequent experience certificate was also submitted by the petitioner which corroborates his entire claim. The reliance on clause 3.2 that only those documents which are uploaded by a candidate shall be considered is only for the purposes of ascertaining the eligibility. It has to be seen that such a clause cannot be applied ministerially and without any application of mind. The same has to be construed in relation to the benefit of experience so claimed by a candidate. For illustration purposes, in case a person has claimed an experience of having served at an 'X' institute in the application form but at the time of verification of documents/scrutiny of documents, he submits the experience certificate from 'Y' institution, the same cannot be taken into consideration as it would be hit by Clause 3.2 of the advertisement, however, when the documents are intrinsically and integrally related to the same experience certificate and pertaining to the same date of appointment in the same institution, the same would not be ordinarily discarded.

18. Considering it from the said perspective, I feel that the reasons given by the respondents in holding the petitioner ineligible for appointment and not recommending his name, notwithstanding that it is not disputed by



213

CWP-8291-2021 (O&amp;M)

the respondents that the petitioner had secured 73 marks in the written examination and is currently eligible for being given the benefit of 03 marks on account of experience, he would be higher in merit than the last candidate recommended by the respondent-Commission for appointment under the general category. Further, respondent No.3, who was otherwise in the BC-A category would be thus considered as having been recommended against his substantive reserved category in which he had submitted his application. It is also significant to mention that the petitioner had impleaded the last selected candidate under the BC-A category as a party respondent in the present proceedings. Despite service, he chose not to appear, hence the said respondent had been proceeded against *ex-parte*.

19. For the foregoing reasons, the instant writ petition is allowed, the official respondents are directed to revise the result and to recommend the case of the petitioner for appointment against the post of Pharmacist against Advt. No.15/2019 dated 07.09.2019.

20. Let the needful be done within a period of 03 months of receipt of a certified copy of this order.

21. Needless to mention that the petitioner shall be entitled to the notional benefits of pay, allowance and seniority only, on his appointment and for actual benefits on expiry of the period of 03 months after receipt of certified copy of this order.

(VINOD S. BHARDWAJ)  
JUDGE

20.02.2025

Mangal Singh

Whether speaking/reasoned : Yes/No  
Whether reportable : Yes/No