



सत्यमेव जयते

न्यायालय मुख्य आयुक्त विकलांगजन
COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES
विकलांगजन सशक्तिकरण विभाग / Department of Empowerment of Persons with Disabilities
सामाजिक न्याय और अधिकारिता मंत्रालय / Ministry of Social Justice and Empowerment
भारत सरकार / Government of India

Case No:5517/1014/2015

Dated: 19 July, 2017

In the matter of:-

Dr. Shivshankar Rajput. R2202
C-2/43, New Nandini Society,
Bhargav Road, Kubernagar,
Ahmedabad, Gujarat-382340.

Complainant

Versus

Union Public Service Commission R2203
(Through: The Secretary)
Dholpur House, Shahjahan Road,
New Delhi.

Respondent No. 1

Ministry of Ayush, R2204
(Through: The Secretary)
Block B, GPO Complex,
INA Colony, New Delhi-110023.

Respondent No. 2

Date of Hearing: 05.06.2017

Present:

1. Complainant present.
2. Shri R.K.Roy, Under Secretary, UPSC and Smt. Shobhana Mathur, Under Secretary, UPSC on behalf of Respondent No. 1.
3. Shri Y.Y. Singh, Under Secretary, Ministry of Ayush on behalf of Respondent No. 2.

ORDER

Dr. Shivshankar Rajput, complainant, a person with 50% physical disability had filed a complaint dated 26.11.2015 before the Court of Chief Commissioner for Persons with Disabilities submitting that he had given exam and interview in UPSC for 22 MO/RO (Ayu.) posts for Ministry of Ayush. Out of 22 posts, one seat was reserved for PH category. He achieved 118 marks out of 200, i.e. 73 marks out of 100 in written exam and 45 marks out of 100 in interview as informed to him in response to his RTI application. As per him, a candidate named Rajivranjan Gaur was selected for unreserved PH category but he refused the offer to join the post. His marks were 2nd highest after Rajivranjan Gaur in unreserved PH category list. When Ministry of Ayush asked UPSC for filling the PH category candidate against the vacant seat from the reserved panel list, they did not send his name as he was not eligible. When he asked UPSC about the same, they informed him that PH candidate must have obtained above 50% in interview as general category candidate. There was no relaxation in qualifying marks. In this regard, he has sent several representations to UPSC but no reply was given by them.

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(कृपया भविष्य में पत्राचार के लिए उपरोक्त फाईल/केस संख्या अवश्य लिखें)

(Please mention file/case number in future correspondence)



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2. The matter was taken up with the UPSC and the Ministry of Ayush vide this Court's letter dated 16.02.2016 to submit their comments along with the details of posts filled since 01.01.1996 in Group 'A and 'B' and cut-off marks for SC/ST/OBC/General, marks obtained by the last selected candidate and a certificate from the Liaison Officer certifying that the reservation roster for the persons with disabilities has been maintained as per DoP&T's instructions.

3. UPSC vide letter dated 18.03.2016 wrote a letter to the Secretary, Ministry of Ayush with a copy to this Court intimating them to furnish the requisite details of posts in the prescribed proforma and a certificate from the Liaison Officer certifying that the reservation roster of persons with disabilities has been maintained as per DoP&T's instructions.

4. Ministry of Ayush vide letter No. C-11011/1/2016-E.I dated 06.04.2016 intimated that they deal with the appointments of AYUSH physicians at the level of Medical Officer/Research Officer. As per the extant instructions of DoP&T, three percent of the vacancies of direct recruitment to the posts are reserved for persons with disabilities. During 2014, the appointment of 22 candidates in MO/RO(Ay.) has been done by them in which 01 post was reserved for PH category. In Ayurveda stream, UPSC had recommended one candidate namely Dr. Rajiv Ranjan Gaur against the post reserved for PH category. However, his offer of appointment was cancelled vide letter dated 23.07.2015. After cancellation, Ministry requested UPSC to provide a candidate of PH category from 'Reserved Panel'. UPSC vide letter dated 16.10.2015 informed "No General-PH candidate is available vice Shri Rajeev Ranjan Gaur". Accordingly, taking note of the information provided by UPSC, a proposal for 15 posts of MO/RO(Ayurved) was submitted to UPSC on 17.11.2015. This proposal included one carry forward vacancy (UR+PH category) vide Shri Rajiv Ranjan Gaur. As informed by UPSC, the vacancies were advertised on 27.02.2016.

5. They further intimated that this Ministry has not maintained separate roster for PH category for being a miniscule cadre. The vacancies for PH category have been worked out in consonance with the extant instructions. Further, the Liaison Officer regarding reservation roster has remarked that put up authenticated roster for PH if maintained in the Ministry, otherwise send suitable reply/information at administrative side.



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6. They further intimated that the information regarding cut-off marks, marks obtained by the last selected candidate in SC/ST/OBC/General and by the complainant does not fall under the domain of the Ministry of Ayush but the UPSC.

7. The complainant vide his rejoinder dated 03.10.2016 raised some questions to UPSC relating to his case. This Court vide its letter dated 14.10.2016 asked the UPSC and Ministry of Ayush to submit their comments on the rejoinder of the complainant.

8. Ministry of Ayush vide letter No. C-11011/1/2016-E.I dated 24.10.2016 intimated that the complainant has asked the questions in his rejoinder from the UPSC only and not from their Ministry. Therefore, no comments are required on the part of their Ministry. However, the candidature of Shri Rajeev Ranjan Gaur was cancelled as he neither reported before the Medical Board of Dr. RML Hospital, New Delhi for taking a date of medical examination nor he sent any communication. It was thus inferred that he is not interested to join the Medical Officer/Research Officer (Ay.) in the Ministry of Ayush. Therefore, his candidature for appointment to the post of Medical Officer/Research Officer (Ay.) was cancelled with immediate effect.

9. UPSC vide letter No. F-1/37(6)/2012-RI/SPC-II dated 29.11.2016 intimated that the matter has already been examined in the Commission. Further, the recommendation of PH candidate as well as operation of the Reserve Panel was made following the policies adopted by the Commission in this regard.

10. Upon considering the replies upon considering the replies of the Respondent No. 1 dated 18.03.2016, 19.04.2016 and 29.11.2016 and Respondent No. 2 dated 06.04.2016 and 24.10.2016 and complainant's letter dated 13.04.2016 and 03.10.2016, a hearing was scheduled on 01.05.2017. Due to administrative reasons, the hearing was re-scheduled for 19.05.2017. At the request of the complainant, the hearing was again re-scheduled on 05.06.2017.

11. During the hearing on 05.06.2017, the complainant intimated that he scored 45 marks out of 100 marks in the interview and 73 marks out of 100 marks in written test, thus he is eligible for selection. He further stated that as per the DoP&T's guidelines, when a physically handicapped



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candidate is not available, then selection is to be made by relaxed criteria for physically handicapped candidate.

12. During the hearing, the representative of UPSC intimated that the complainant did not score 50% marks in the interview which are required for a PH candidate and that he was not selected.

13. During the hearing, the representative of the Ministry of Ayush intimated that they will take up the matter with UPSC and whatever UPSC will say they will abide by the same.

14. The Court after hearing all the parties observed that para 22 of DoP&T's O.M. No. 36035/3/2004-Estt. (Res) dated 29.12.2005 provides relaxation of standard of suitability, if sufficient number of persons with disabilities are not available on the basis of the general standard to fill all the vacancies reserved for them. When Ministry of Ayush asked UPSC for filling the PH category candidate against the vacant seat from the reserved panel list, why they did not send the name of the complainant who was 2nd highest after Shri Rajeev Ranjan Gaur in unreserved PH category list. In this way, the complainant has been denied the opportunity for being appointed to the post. The Court advised Ministry of Ayush to give appointment to the complainant within 03 months' time and intimate the Court accordingly.

15. The case is accordingly disposed off.

(Dr. Kamiesh Kumar Pandey)
Chief Commissioner
for Persons with Disabilities