

Delivered on 4.7.2025.

Court No. - 4

"AFR"

Case :- WRIT - A No. - 5667 of 2015

Petitioner :- Sandhya Yadav

Respondent :- State Of U.P. And 2 Ors.

Counsel for Petitioner :- Satya Prakash Pandey

Counsel for Respondent :- Ajay Kumar,C.S.C.,Nisheeth Yadav,Nishith Yadav

Hon'ble Ajit Kumar,J.

1. Heard Sri Ashok Khare, learned Senior Advocate assisted by Sri S.P. Pandey, learned counsel for the petitioner, Sri Nisheeth Yadav, learned counsel for the contesting respondent U.P. Public Service Commission and Sri Vishal Singh, learned Standing Counsel for the State respondents.
2. Briefly stated facts of the case are that U.P. Public Service Commission issued an advertisement on 14th July, 2014 bearing advertisement No. A-2/E-1/2014 inviting application on the post of Food Safety Officer prescribing certain qualifications for a candidate to apply against the same.
3. The petitioner appeared in the written examination held by Public Service Commission and for having passed out successfully in the written examination she was issued with call letter dated 5.12.2014 for the interview scheduled on 19.12.2014. However, when the petitioner approached the Commission to participate in the interview, she was not permitted to participate. Final results came to be declared on 29th January, 2015 and the petitioner's candidature having been rejected, she filed petition before this Court on 28th January, 2015 itself. The grievance of the petitioner is that she possessed requisite qualification as prescribed for under the advertisement and accordingly she was permitted to participate in the written examination, however, when she came to participate in interview, she was not permitted to participate for the reason that

she did not possess bachelor's degree in medicine. It was argued on behalf of the petitioner that Integral University of Lucknow was a recognized university by the University-Grants-Commission and hence courses conducted by University including the bachelor in Physiotherapy, which was a four years course, were also taken to be recognized one.

4. It was argued on behalf of the petitioner that bachelor in Physiotherapy was a degree conferred upon a candidate who underwent four years' course by rigorous study of various subjects that included theory in General Surgery, clinical Neurology & Neurosurgery, Clinical Orthopaedics, Biomechanical & Kinesiology, Physical Medicine & Rehabilitation, Physiotherapy Ethics and Laws as practical subjects under General Surgery Lab, Clinical Neurology & Neurosurgery Lab, Clinical Orthopaedics Lab and Biomechanics & Kinesiology Lab.

5. It was argued that Section 2-f of the Indian Medical Council Act, 1956 defined medicine which meant Modern Scientific Medicine in all its branches and included in it surgery bio-statics, but did not include veterinary medicine and surgery. Thus, according to learned Senior Advocate, the curriculum that was prescribed for degree of bachelor in Physiotherapy as referred to hereinabove, would be sufficient to hold it to be category of medicine. It was argued that all the branches that prescribed for course of bachelor in Physiotherapy were all related to Modern Scientific Medicine in its different branches and included medicine study and surgery also.

6. Sri Khare also placed before the Court the notification of the University-Grants-Commission dated March, 2014 that defines various degrees and recognizes degree of bachelor of Physiotherapy as degrees relating to medicine in Surgery /Ayurveda /Unani /Homeopathic /Health and Allied Sciences /Paramedical /Nursing. Sri Khare further submitted that there being no quarrel about status of the University and the degree obtained by the petitioner, the respondent Commission was not justified in rejecting the candidature of the petitioner for the post in question holding that

petitioner did not possess required degree as per qualification prescribed for under the relevant service rules. .

7. Meeting the above submissions advanced by Sri Khare, learned counsel for the respondent Sri Nisheeth Yadav submitted that petitioner's application was initially entertained because she filled up form declaring herself to be eligible candidate having requisite qualification, but since there arose some doubt about degrees which may be "N" number and which were claimed to falling within the definition of bachelor's degree in medicine, for determination, commission was justified in getting confirmation from State Government, and the appointing authority, namely, Commissioner, Food and Drugs Administration, U.P. Mr. Yadav submitted further that upon query being made by the Commission from the Commissioner, Food and Safety Drugs Administration, U.P. Lucknow vide letter dated 27th August, 2014, he apprised the Commission vide letter dated 11th September, 2014 that qualifications given under the U.P. Food Safety and Drug Administration Department (Food Safety Cadre) (Group A,B and C) Service Rules, 2012 in relation to Group A,B,C categories employees of department of Food, Safety and Drugs Administration of U.P., the same were to be enforced as applicable. It also apprised the Commission that Central Government had not notified any other equivalent qualification to the qualification prescribed under the Rules and thus on the basis of information received from the Director (Enforcement) for the Food Safety and Standards Authority dated 30th June, 2014, the Commission concluded the bachelor's degree in Physiotherapy would not count to degree in medicine/ medical science, a requisite qualification.

8. In support of his above argument, Mr. Yadav further draw the attention of the Court towards letter dated 15th December, 2014 written by Commissioner, Food Safety and Drug Administration, in which it was stated that degree means degree recognized under the Indian Medical Council Act, 1956 and as per letter written by Director General, Medical Health Education and Training,

Government of U.P. dated 10.12.2014, only MBBS degree is recognized under the Indian Medical Council Act, 1956.

9. Sri Yadav has further placed before the Court the letter of the Director, Indian Food Safety and Standard Authority dated 26th November, 2014 that degree in medicine means degree recognized under the Indian Medical Council Act, 1956. Sri Yadav has also drawn attention of the Court to the letter of the State Government written to the Commissioner, Food, Safety and Drug Administration, U.P. Lucknow dated 11th December, 2014 that a candidate who possessed bachelor's degree in medicine, was eligible. Letter of the Director General of Medical Education and Training, U.P. Lucknow dated 10th December, 2014 has also been brought on record alongwith supplementary counter affidavit.

10. Sri Yadav further took the Court to academic qualification given under the Service Rules, 2012 applicable to the department, in which it required degree in medicine from a recognized university or any other recognized qualification notified by the Central Government. Sri Yadav submitted that it very clearly demonstrated that any bachelor's degree in medicine shall be sufficient for the purposes of qualification or any degree recognized /notified by Central Government as the Central Government has the authority to provide for equivalence in matter of qualification. Sri Yadav submitted that it had already come from Central Government that there was no such degree recognized and Medical Council of India recognized bachelor's degree in medicine only for it was mentioned in the Indian Medical Council Act, 1956. Sri Yadav further submitted before the Court that qualification and its equivalence could only be prescribed by the State Government or appointing authority by framing rules and no court in exercise of power under Article 226 of the Constitution could hold a bachelor qualification to be equivalent to the one required under the rules.

11. Mr. Yadav has placed reliance upon the judgment of the coordinate bench of this Court in the case of **Anoop Kumar and 135 Others v. State of U.P. and Another (Writ A No. 63851 of**

2014), decided on 23.12.2014. He has placed the relevant para of the judgment, which runs as under:

"Sri Radha Kant Ojha, learned Senior Counsel as well as Sri Alok Mishra, learned counsel for the petitioners in both the writ petitions very fairly stated that the controversy in the present writ petitions had arisen earlier in Writ Petition No.65506 of 2010, Anand Kumar Rai Vs. State of U.P. and Others and in Writ Petition No.8736 of 2011, Vijay Kumar Kamley Vs. State of U.P. and Another and the question as to whether the qualification of B.Tech. in the Agriculture Engineering was equivalent to Bachelor's Degree in Agriculture had been considered by the Division Bench of this Court and the Division Bench had held in paragraph 8 that prima facie, without going into the details, the syllabus for Agriculture for which the qualifications in the prescribed code is B.Sc. (Agriculture) as in Item No.1 is different than the Agricultural Engineering in Item No.33. The Division Bench had further held that the Courts do not possess the expertise to compare the equivalence of educational qualifications, to make comparisons for eligibility for the posts in the statutory rules. Reliance was placed upon a judgment of the Supreme Court reported in AIR 2002 SC 2642, State of Rajasthan & Ors. Vs. Lata Arun, in which it was held by the Supreme Court that it was not for the Court to decide whether a particular educational qualification should or should not be accepted as equivalent to the qualification prescribed by the Authority. Similar view was expressed by the High Court in 2012 (90) ALR 314, Urmila Devi Vs. State of U.P. and Another, wherein the High Court held that the Courts do not have the Authority to do the job of experts and grant such equivalence. The equivalence to the examination can only be allowed by the State Government after consulting the experts."

12. He placed reliance upon another division bench judgment in the case of **Virendra Kumar Yadav (PIL) v. Union of India through the Chairperson Food Safety and Standards Authority and Others, (Misc. Bench No. 1717 of 2013 decided on 25.4.2014.** He has placed reliance the relevant portion of the judgment, which runs as under:

"7. As regards the posts of Food Safety Officer, there are 662 posts of which 287 have been filled up, resulting in 375 vacancies. These posts are to be filled up by direct recruitment through the Commission. The State Government has informed the Court that the requisition for recruitment on the posts of Food Safety Officer was not sent to the Commission since it was felt that there was a need to modify the service rules which provide the qualification for the post of Food Safety Officer. In this regard, it would be necessary to note that Rule 2.1.3 of the Food Safety and Standards Rules, 2011 provides for the following qualification for the post of Food Safety Officer:

"1. Qualification - Food Safety Officer shall be a whole time officer and shall, on the date on which he is so appointed, possesses the following:

(i) a degree in Food Technology or Dairy Technology or Biotechnology or Oil Technology or Agricultural Science or Veterinary Sciences or Bio-

Chemistry or Microbiology or Masters Degree in Chemistry or degree in medicine from a recognized University, or

(ii) any other equivalent/recognized qualification notified by the Central Government, and

(iii) has successfully completed training as specified by the Food Authority in a recognized institute or Institution approved for the purpose:

Provided that no person who has any financial interest in the manufacture, import or sale of any article of food shall be appointed to be a Food Safety Officer under this rule."

8. The difficulty which has been faced by the State Government, is in respect of the qualification provided in clause (iii) pertaining to conditions of training as specified by the Food Authority in a recognized institute or institution approved for the purpose. The Uttar Pradesh Food Safety and Drug Administration Department (Food Safety Cadre) (Group 'A', 'B' and 'C') Service Rules, 2012, inter alia, provide in Rule 5, that the Food Safety Officers will be recruited directly through the Commission in accordance with the Act of 2006 and Rules of 2011, as amended from time to time. The process of specifying a recognized institute or an institution approved for the purpose by the Food Authority has not been concluded. On 31 July 2013, a letter was addressed by the Food Authority to the Commissioner (Food Safety) of the State Government stating that the process of designating two institutes in Uttar Pradesh has been initiated and, in the meantime, steps may be taken by the State Government for going ahead with the selection, subject to the condition that the selected candidates must complete the training before appointment. This exercise seems to be based on the provisions of Rule 2.1.3 which specify that the Food Safety Officer has to hold the prescribed qualification on the date on which he is so appointed. In view of this clarification which has been issued by the Food Authority, it is now clear that the State Government can proceed ahead for completing the selection process by moving a requisition to the Commission. In the meantime, the process of designating the recognized institutes should be completed expeditiously, so that the selected candidates can undergo training before formal letters of appointment are issued. The Commission is directed to ensure that the recruitment of Food Safety Officers is carried out separately and with utmost priority. The State Government has informed the Court that it would submit a requisition to the Commission within a period of two weeks from today. The recruitment process, as stated before the Court by the learned counsel appearing on behalf of the Commission on instructions, shall be initiated within a period of six weeks of the receipt of the requisition. The Court has been informed that the recruitment process would be completed within a period of four months from the date of the advertisement. The State Government shall, in terms of the statement made before the Court, complete the process of appointment within a period of two months (including of the period of training) from the date of receipt of the recommendation from the Commission. The Food Authority has informed the Court through Mr. Sanjay Gupta, Assistant Director (Enforcement), that the process of granting approval/recognition to the training institutes under the provisions of Rule 2.1.3 shall be completed within a period of two months from today. We record the assurance and direct that the statement be adhered to. "

13. Sri Yadav further submitted before the Court that advertisement was issued in the year 2014, in respect of which

entire selection had stood concluded in the year 2015 and recommendations were made and appointments had also been made, and therefore, it was too late in the day to ask for participation in interview in respect of vacancies advertised in the year 2014 and to demand for a further chance of selection.

14. Meeting the counter, in rejoinder Sri Khare, learned Senior Advocate submitted that if the petitioner possessed requisite qualification and Commission was at fault in not permitting the petitioner to participate in the interview by the Commission question here qualification for the post in question, it was the Commission to be blamed in the matter and not the petitioner. It was submitted that in public law remedies, it was a primary duty under the Constitution of a Court to arrest any miscarriage of justice by exercising discretionary power and thus according to him delay itself cannot be a ground to deny the benefit to which petitioner was otherwise entitled.

15. Mr. Khare placed reliance upon the judgment of the Supreme Court in the case of **Smita Shrivastava v. State of Madhya Pradesh and Others, 2024 SCC Online SC 764**. He has placed reliance of paragraph 9 of the judgment, which runs as under:

"9. Learned counsel for the appellant has drawn our attention to the judgment of this Court in the case of Manoj Kumar v. Union of India and Others. The relevant extracts of which are quoted hereinbelow for the sake of ready reference: -

19. Within the realm of judicial review in common law jurisdictions, it is established that constitutional courts are entrusted with the responsibility of ensuring the lawfulness of executive decisions, rather than substituting their own judgment to decide the rights of the parties, which they would exercise in civil jurisdiction. It has been held that the primary purpose of quashing any action is to preserve order in the legal system by preventing excess and abuse of power or to set aside arbitrary actions. Wade on Administrative Law states that the purpose of quashing is not the final determination of private rights, for a private party must separately contest his own rights before the administrative authority. Such private party is also not entitled to compensation merely because the administrative action is illegal. A further case of tort, misfeasance, negligence, or breach of statutory duty must be established for such person to receive compensation.

20. We are of the opinion that while the primary duty of constitutional courts remains the control of power, including

setting aside of administrative actions that may be illegal or arbitrary, it must be acknowledged that such measures may not singularly address repercussions of abuse of power. It is equally incumbent upon the courts, as a secondary measure, to address the injurious consequences arising from arbitrary and illegal actions. This concomitant duty to take reasonable measures to restitute the injured is our overarching constitutional purpose. This is how we have read our constitutional text, and this is how we have built our precedents on the basis of our preambular objective to secure justice. [The Preambular goals are to secure Justice, Liberty, Equality, and Fraternity for all citizens.] (2024) 3 SCC 563 21. In public law proceedings, when it is realised that the prayer in the writ petition is unattainable due to passage of time, constitutional courts may not dismiss the writ proceedings on the ground of their perceived futility. In the life of litigation, passage of time can stand both as an ally and adversary. Our duty is to transcend the constraints of time and perform the primary duty of a constitutional court to control and regulate the exercise of power or arbitrary action. By taking the first step, the primary purpose and object of public law proceedings will be subserved.

22. The second step relates to restitution. This operates in a different dimension. Identification and application of appropriate remedial measures poses a significant challenge to constitutional courts, largely attributable to the dual variables of time and limited resources.

23. The temporal gap between the impugned illegal or arbitrary action and their subsequent adjudication by the courts introduces complexities in the provision of restitution. As time elapses, the status of persons, possession, and promises undergoes transformation, directly influencing the nature of relief that may be formulated and granted.”

16. Sri Khare has drawn attention of the Court towards information obtained under Right to Information Act, 2005 by the petitioner, according to which 430 total vacancies were advertised whereas appointments were given only to 390 candidates and out of 390 candidates only 289 candidates had joined. It was further submitted that as per information 86 females were issued with the appointment orders whereas 73 females only joined. Thus, according to him vacancy did exist and petitioner could have been adjusted.

17. Having heard learned counsel for the respective parties and having perused the records, the only question arises for consideration of this Court *as to whether qualification of the petitioner as bachelor in Physiotherapy, decree of which has been*

conferred by the State Integral University, Lucknow to meet qualification prescribed under the Service Rules, 2012.

18. In Order to find answer to this question, I first proceed to examine the rules that prescribed for the post of Food Safety Officer. The relevant provision in this regard as contained in Rule 8 of the U.P. Food Safety and Drug Administration Department (Food Safety Cadre) (Group-'A','B', and 'C') Service Rules, 2012 is reproduced hereunder:

“8. Academic qualification- A candidate for direct recruitment to the various posts in the service must possess the following qualifications:

Post	Qualification
(1)Food Safety Officer	(1)A Bachelor's Degree in Food Technology or Dairy Technology or Biotechnology or Oil Technology or Agricultural Science or Veterinary science or Bio-Chemistry or Microbiology or lost-Graduate Degree in Chemistry or Degree in Medicine from recognised University of any other equivalent recognised qualification notified by the Central-Government; and (ii).....has successfully completed training as specified by the Food Authority in a recognised Institute or Institution approved for the purpose: Provided that no person who has any Financial interest in the manufacture, import or sale of any article of food shall be appointed to be a Food Safety Officer- under these rules:
(2) Designated Officer	(i)Post Graduate Degree in Chemistry is one of the subjects from a University established by Law in India or a qualification recognised by the Government as equivalent thereto or (II)At least one of the qualifications prescribed for direct recruitment to the post

	<i>of Food Safety Officer under these rules:</i>
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9. *Preferential qualification- A candidate who has-*

(1) served in the Territorial Army for a minimum period of two years; or

ii) obtained a 'B' Certificate of National Cadet Corps, shall, other things being equal, be given preference in the matter of direct recruitment.

10. *Age- A candidate for direct recruitment must have attained the age of 21 years and must not have attained the age of more than 35 years din the first day of July of the Calendar year Sin which vacancies for direct recruitment are advertised by the Commission:"*

(emphasis added)

19. For the purpose of this case and to determine the question framed the words and expression *bachelor degree in medicine from a recognized university or any other equivalent/recognized qualification notified by the Central Government* are only to be taken into consideration. From a bare reading of the aforesaid provisions as quoted, it is clear that if candidate possesses bachelors degree in medicine obtained from a recognized University or any other relevant/recognized qualification notified by Central Government would be eligible for the post of Food and Safety Officer. Petitioner is admittedly having bachelor’s degree from the State Integral University, Lucknow in Physiotherapy. The said university is recognized by the University-Grants-Commission to run this course and confer degree in that regard. Therefore, it cannot be doubted that petitioners bachelor’s degree in Physiotherapy is a degree obtained from a recognized University. The question for consideration is only whether this degree amounts to bachelor degree in medicine/medical science or not.

20. In so far as equivalent qualification/recognized qualification alternatively provided under the Rules is concerned, from the information given in letter by the Additional Director (Enforcement) of the department of Indian Food Safety and Standard Authority, New Delhi dated 26th November, 2014, it is clear that no degree in medicine/medical science is recognized by the Central Government

except degree of medicine recognized by the Indian Medicine Council under the Act of 1956. The letter written by the Additional Director (Enforcement) of the department of Indian Food Safety and Standard Authority Ministry of Health and Welfare, New Delhi dated 26th November, is reproduced hereunder:

"सेवा में,

आयुक्त खाद्य सुरक्षा,

खाद्य सुरक्षा एवं औषधि प्रशासन,

उत्तर प्रदेश, 9, जगत नारायण रोड,

लखनऊ, उत्तर प्रदेश-226017

विषय: खाद्य सुरक्षा एवं औषधि प्रशासन विभाग, उ. प्र. के अधीन खाद्य सुरक्षा अधिकारी के 430 पदों पर सीधी भर्ती के माध्यम से चयन हेतु प्राप्त अध्याचन के विसंगति के संबंध में।

महोदय,

कृपया उपरोक्त विषयक पत्रांक एफ.एस.डी.ए./2014-15/6959, दिनांक 10 नवंबर, 2014 जो इस कार्यालय में दिनांक 17 नवंबर, 2014 को प्राप्त हुआ है, का संदर्भ ग्रहण करने का कष्ट करें। इस संबंध में कृपया अवगत हों की खाद्य अधिनियम, 2006 एवं नियम 2011 के अनुसार चिकित्सा में डिग्री भारतीय चिकित्सा परिषद अधिनियम 1956 के तहत डिग्री का मतलब होगा।

धन्यवाद

भवदीय

संजय

(संजय गुप्ता)

सहायक निदेशक (प्रवर्तन)"

(emphasis added)

21. I find that Director General Medical Health and Education, Government of U.P. Lucknow also wrote a letter to the Commissioner, Food Safety and Medicine Administration U.P. on 10th December, 2014, in which it has been in an unequivocal terms has come to be stated that only degree recognised by the Medical Council of India 1956 will constitute an academic qualification

required under the Rules. The letter of the Director General dated 10th December, 2014 is reproduced hereunder:

"प्रेषक,

"महानिदेशक,

चिकित्सा शिक्षा एवं प्रशिक्षण,

उत्तर प्रदेश, लखनऊ।

सेवा में,

आयुक्त,

खाद्य सुरक्षा एवं औषधि प्रशासन, उ०प्र०,

09 जगत नारायण रोड लखनऊ।

संख्या- एम० ई०/03/2014/4277

लखनऊ: दिनांक 10 दिसम्बर, 2014

विषय- भारतीय चिकित्सा परिषद अधिनियम 1956 के तहत औषधि में उपाधि के अन्तर्गत बी० फार्मा, एम० बी० बी० एस०, बी० डी० एस०, बी० ए० एम० एस०, बी० एच० एम० एस०, बी०यू०एम० एस० डिग्री की मान्यता के सम्बन्ध में।

महोदय,

उपर्युक्त विषयक अपने कार्यालय के पत्र संख्या - एफ०एस०डी०ए०/209/2914/7356 दिनांक 03 दिसम्बर 2014 का कृपया संदर्भ ग्रहण करें, जिसके द्वारा खाद्य सुरक्षा एवं औषधि प्रशासन विभाग उत्तर प्रदेश के अधीन खाद्य सुरक्षा अधिकारियों के पदों पर सीधी भर्ती के माध्यम से चयन हेतु भेजे गये अधियाचन के अनुक्रम में लोक सेवा आयोग उत्तर प्रदेश ने खाद्य सुरक्षा एवं मानक अधिनियम 2006 एवं नियम 2011 के अनुसार औषधि के उपाधि के अन्तर्गत बी० फार्मा, एम० बी० बी० एस०, बी० डी० एस०, बी० ए० एम० एस०, बी० एच० एम० एस०, बी०यू०एम० एस० डिग्री मान्य होगी अथवा नहीं के सम्बन्ध में वास्तुस्थिति की सूचना चाही गयी है।

उक्त के सम्बन्ध में आपको अवगत कराना है कि भारतीय चिकित्सा परिषद अधिनियम 1956 के तहत मात्र एम० बी० बी० एस० पाठ्यक्रम की डिग्री मान्य है, इस सम्बन्ध में अधिक जानकारी हेतु भारतीय चिकित्सा परिषद अधिनियम 1956 जो एम० सी० आई० की बेब- साइट www.mciindia.org पर उपलब्ध है, का अवलोकन करने का कष्ट करें।

भवदीय

(के०के० गुप्ता)

महानिदेशक"

(emphasis added)

22. Commissioner, Food Safety and Drug Administration, U.P. Lucknow, the appointing authority has also relied upon the letter of the Director General dated 10.12.2014. Thus, information given to the Public Service Commission clearly provided that only those confer degree but a degree in this subject Medical Science course would be conferred only in the event such a course is recognized by Medical Council of India as per parameters laid down by it and the institution like such Universities have been permitted to run courses by it. The question whether the word 'medicine' would include Physiotherapy or not, and even if Medical Council of India is silent, considering the definition given under Section 2-f of the Medical Council Act, 1956, if degree claimed as at par with medicine if so held, in my considered view, this would amount to an act of holding a particular degree equivalent to degree required under the Service Rules, which certainly fall outside the scope of jurisdiction of this Court under Article 226 of the Constitution.

23. I find myself in full agreement with the view expressed by the Coordinate bench of this Court in the case of **Km. Pratima Gupta v. State of U.P and 2 Others, passed in Writ A No. 25238 of 2016, decided on 09.01.2019**, wherein the Court has held that providing equivalence to qualification prescribed in the rules is essentially a job of experts in the field and for the State Government to formulate on its own volition with regard to such equivalence.

24. Similar view has been expressed by another coordinate bench in its judgment and **order dated 24th February, 2022 passed in Writ A No. 1984 of 2022 (Alok Shukla and Another v. State of U.P. and 2 Others)**, wherein the Court held that selection and appointment should be made strictly in terms of advertisement and recruitment rules issued. The question as to whether particular post-graduate degree would be equivalent to the one prescribed under the rules, would fall within the domain of the State Government it being a policy matter.

25. Thus it is either for the State Government to recognize such degree of Physiotherapy as equivalent to the bachelor's degree in medicine or for Medical Council of India to recognize course of Physiotherapy as of medicine and unless and until State Government recognizes so or the appointing authority admits such degree to be degree required under the Service Rules as an academic qualification, this Court will not direct the authority to consider degree in question as a qualification at par with graduate bachelors degree in medicine as required under the relevant Service Rules.

26. Mr. Yadav, appearing for Public Service Commission, submitted that in the event of confusion, the Commission will always seek clarification from the appointing authority or the State Government and appointing authority being Food Safety Commissioner, it is claimed that Commission was justified for having relied upon the said opinion. The opinion obtained from the Central Government also holds that MBBS degree recognized by Medical Council of India would only constitute the bachelors degree in 'medicine'. Thus, this opinion is liable to be taken as valid enough to rely upon and Commission cannot be treated to have committed any manifest error in relying upon this opinion. Interestingly these opinions are not under challenge before this Court.

27. Coming to the aspect of the matter that bachelor's degree issued by a recognized University in Physiotherapy would also amount to degree in medicine despite the opinion rendered by the authorities, I proceed to examine whether bachelor's degree in Physiotherapy is recognized by Medical Council of India or not. Going through the appendix of Medical Council Act, 1956, I do not find U.P. State Integral University Lucknow to be a recognized institution to award degree in medicine.

28. Learned Senior Advocate has sought to urge that looking to the curriculum prescribed for the course of bachelors degree for Physiotherapy, it can be said that subjects are of advance medical science, and therefore, relying upon the definition as contained under Section 2-f of the Indian Medical Council Act, 1956. It is

contended that 'medicine' being a wide term, it may include various branches of Modern Science. It is true that definition is broad enough to bring in its fold various branches of medicine, which may include Physiotherapy, but for that the concerned University must be recognized by Medical Council of India for running such a course to be termed as course of medical science/medicine. Unfortunately the course in question, of which petitioner has the certificate, is not recognized by Medical Council of India as course of Medicine for awarding such a degree.

29. In the considered view of the Court, Medical Council of India is the ultimate statutory body, which recognizes courses of Medical Science, and therefore, in absence of recognition of a course to award degree in the subject of Medical Science, which may include Physiotherapy, petitioner's qualification, cannot be said to be a requisite qualification under the Service Recruitment Rules, 2012.

30. Learned Senior Advocate of-course has referred to the notification of the University-Grants-Commission, 2014 which has recognized bachelor's degree in Physiotherapy, but I find that to be having different degrees referred right from item no. 73 to 110 and there are various heads like the one "Medicine and Surgery/Ayurveda/Unani/Homoeopathic/ Health and Allied Science/Paramedicals/ Nursing" . Item No. 73 refers to MBBS that is bachelor in medicine and bachelor in surgery. It is further expanded as bachelor of medicine and biometric surgery as specified degree, then I find there to be other degrees of different disciplines. Looking to various subjects referred to in the title clause for item no. 73 to 110, a bachelor's degree in Physiotherapy can be referable only to Allied Science/Paramedical/Nursing, and certainly not referable to medicine and surgery. I, therefore, do not find any supportive material in the notification issued by the University-Grants-Commission, 2014 brought on record as S.A.-1 to find favour with argument of learned Senior Advocate. Still further, I may observe that University-Grants-Commission recognized various courses for which University can confer degree. However, University

where teaching in Medical Science or any other discipline is perused, it shall have to have recognition from University-Grants-Commission, but the courses regarding medical science are prescribed only by the Medical Council of India and of-course, degrees recognized by Medical Council of India would be necessary for the purposes of appointment in the field of Medical Science. In other words University-Grants-Commission recognizes university for the purposes of awarding degrees at macro level whereas Medical Council of India Science is confined to Medical Science only. Therefore, a University even if recognized by University-Grants-Commission to confer degrees in medicine that are recognized by Medical Council of India under the Act, 1956, it would not amount to academic qualification as prescribed under the Service Recruitment Rules, 2012. Admittedly, Public Service Commission as a selecting and recommending authority has no business to interpret qualifications.

31. In view of the above, therefore, I hold that degree possessed by the petitioner, being bachelor in Physiotherapy, is not a degree of bachelor in medicine, a requisite academic qualification under Service Recruitment Rules , 2012. The Court could have considered the prayer of the petitioner and refer the matter to the State Government for considering and passing appropriate orders regarding equivalence *qua* bachelors in medicine degree or for that matter to the Central Government, but I find that there is no such prayer made. I further find that this selection pertains to the year 2014 advertisement, which has been completed. Once selection process has come to an end, now this Court cannot permit reopening of selection at this stage.

32. Thus, petition lacks merit and is accordingly dismissed.

Order Date :- 4.7.2025

Sanjeev