

**Vijay Kumar Vs. Uoi and anr.**

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**SooperKanoon Citation :** [sooperkanoon.com/920643](http://sooperkanoon.com/920643)

**Court :** Delhi

**Decided On :** Aug-19-2011

**Judge :** Pradeep Nandrajog; Sunil Gaur, Jj.

**Appeal No. :** W.P.(C) 4023/2011

**Appellant :** Vijay Kumar

**Respondent :** Uoi and anr.

**Advocate for Def. :** Mr.A.S.Chandhiok; Ms.Sapna Chauhan; Mr.Bhagat Singh; Mr.Yash Wardhan Tiwari, Adv.

**Advocate for Pet/Ap. :** Dr.L.S.Chaudhary, Adv.

**Judgement :**

1. This is the second round of litigation being fought. The first was fought when WP(C) No.7115/2002 filed by petitioner was decided in his favour by a Division Bench of this Court on 27.8.2008.

2. At the earlier round of litigation, 3 grievances raised by the petitioner were considered. First was his not being treated to be on duty when he was undergoing training, as an essential part of the diploma course undertaken by the petitioner in pharmacy, from M.S.Ramaiah College of Pharmacy. The second was of expenses incurred by him while completing the Pharmacy course not being refunded to him; and lastly his issue with respect to 6 persons, viz., Sher Singh, Gautam Ram

Saukata, Ram Singh, Manohar Singh, Raghubir Singh Taulia and Kishan Singh being promoted as SI (Pharmacist) and petitioner being denied said benefit. Petitioner claimed that benefit accorded to said 6 persons needs to be extended to him.

3. The petition filed by the petitioner succeeded with directions being issued requiring the respondents to treat period spent on training by the petitioner while completing the diploma course as on duty and this entailed emoluments to be paid to the petitioner for said period. On the issue of claim for reimbursement, it was directed that the department would consider the bills submitted by the petitioner and would do the needful. As regards the third plea of parity with said 6 persons, department was directed to consider the case of the petitioner for promotion and if it was found that he was at par with the 6 persons, to promote him.

4. For reasons which are only known to the petitioner and have not been disclosed by him, he furnished the requisite bills for reimbursement after 2 years and 4 months of the order dated 27.8.2008 being passed. He submitted the reimbursement bills on 27.12.2010.

5. The department considered his claim for being appointed as a SI (Pharmacist) and declined the same.

6. As regards period to be treated as spent on duty when petitioner was undergoing training, an essential component of the diploma course, needful has been done.

7. Instant writ petition has been filed praying that respondents be directed to appoint petitioner as SI (Pharmacist) w.e.f. 14.6.2001 i.e. the date when the petitioner obtained diploma in Pharmacy. Claim for reimbursement being declined, prayer made is to issue a mandamus to the respondents to reimburse the amount spent by the petitioner when undergoing the course in Pharmacy.

8. As regards petitioner's claim for promotion is concerned, suffice would it be to state that Sher Singh, Gautam Ram Saukata, Ram Singh, Manohar Singh, Raghubir Singh Taulia and Kishan Singh were never promoted as SI (Pharmacist).

They being qualified to be appointed as SI (Pharmacists), while working under the respondents, applied when direct recruitment was effected in the year 1993 for the post of SI (Pharmacist). Possessing the requisite qualifications, all of them competed at the selection by way of direct recruitment and this is the reason why they were appointed as SI (Pharmacist) in the year 1993.

9. Petitioner never responded to the advertisement in question. He could not for the reason petitioner obtained diploma in Pharmacy in the year 2001. Thus, petitioner's claim for parity with said 6 persons for promotion had rightly been declined.

10. As regards the prayer made for reimbursement of the money spent to undertake the diploma course in Pharmacy, no relief could be granted to the petitioner for 2 reasons. In the earlier writ petition he had claimed having spent only `20,000/- and for unexplainable reasons the claim has now been raised to `6,15,012/-.

11. Petitioner has not explained as to how has the claim inflated.

12. Secondly SR-194(A), pertaining to reimbursement, requires bills to be submitted within 1 year of completion of the course. The inflated bills have been submitted by the petitioner after 10 years and needless to state it would be impossible for the respondents to verify the genuineness of the claims. We highlight that in the earlier writ petition being WP(C) No.7115/2002, the petitioner has averred that he was entitled to reimbursement of only `22,000/-.

13. We may also note that there are serious discrepancies in the bills pertaining to sum of `22,000/-, submitted by the petitioner in the year 2000 and the bills which he has submitted pertaining to the said sum, at the second stage. The discrepancies have been highlighted in para 16 of the counter affidavit as under:-

"the bills attached by the petitioner in WP(C) No.7115/2002 consisted of a bill of `10,000/-, dated 28.9.98, and a bill for `12,000/-, dated 02.02.2000. It is brought out that these bills were again submitted by the petitioner on 27.12.2010 (Annexure R-3 colly). A comparative study of Annexure R-1 and R-3 make it

abundantly clear that these were resubmitted in a different form and appearance, where even the bill numbers were found to be different and so are the headings. Also, as per the earlier Bill the Fee for 2nd Year D.Pharm. was shown as a cheque payment, whereas in the said new Bill produced on 27.12.2010, it was shown as cash payment."

14. We find no merit in the writ petition and hence dismiss the same but refrain from imposing any costs.

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