



**REPORTABLE**

**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NO. \_\_\_\_\_ OF 2026**  
**(Arising out of SLP (Civil) No. 12236 of 2025)**

**MD. FIROZ MANSURI & ORS.                      ...APPELLANT(S)**

**VERSUS**

**THE STATE OF BIHAR & ORS.                      ...RESPONDENT(S)**

**WITH**

**CIVIL APPEAL NO. \_\_\_\_\_ OF 2026**  
**(Arising out of SLP (Civil) No. 11572 of 2025)**

**CIVIL APPEAL NO. \_\_\_\_\_ OF 2026**  
**(Arising out of SLP (Civil) No. 11752 of 2025)**

**CONTEMPT PETITION DIARY NO. 44226/2025**

**CIVIL APPEAL NO. \_\_\_\_\_ OF 2026**  
**(Arising out of SLP (Civil) No. 19160 of 2025)**

**CIVIL APPEAL NO. \_\_\_\_\_ OF 2026**  
**(Arising out of SLP (Civil) No. 25910 of 2025)**

## J U D G M E N T

SATISH CHANDRA SHARMA, J.

1. Leave granted.
2. The present appeals arise from the judgement and order of the Division Bench of the High Court of Judicature at Patna dated 10.04.2025 (*hereinafter* “**Impugned Order**”), wherein the High Court upheld the constitutional validity of Rule 6(1) of the Bihar Pharmacists Cadre Rules, 2014 (as amended by the Bihar Pharmacist Cadre (Amendment) Rules, 2024) (*hereinafter* “**Cadre Rules**”), holding that that the fixation of minimum qualification for recruitment of Pharmacist and the “note” in the Cadre Rules providing that holders of Bachelor’s/ Master’s degree in Pharmacy could apply but subject to their having obtained the minimum qualification of diploma, is neither arbitrary or exclusionary *per se*.
3. The Appellants are holders of Bachelor’s/ Master’s degree in Pharmacy (*hereinafter* “**B.Pharma** and **M.Pharma**”) and are registered with the Bihar State Pharmacy Registration Council. They claim eligibility for appointment to the post of Pharmacist (basic category) under the State of Bihar.
4. The Government of Bihar notified the Bihar Pharmacists Cadre Rules, 2014 on 10.10.2014. Rule 6(1) prescribed the minimum educational qualification for appointment by direct

recruitment to the post of Pharmacist (basic category) as Intermediate/10+2 (Science) pass with passing in all parts of Diploma in Pharmacy from a recognised institution and registration with the Bihar Pharmacy Council. Appendix-I identified the various categories of posts, including the post of Pharmacist (basic category), and stipulated their requisite qualifications. A note appended thereto stated that candidates possessing Bachelor of Pharmacy/ Master of Pharmacy degrees may also apply.

5. Thereafter, on 15.01.2015, the Pharmacy Council of India notified the Pharmacy Practice Regulations, 2015 (*hereinafter* “**the Regulations**”) under Sections 10 and 18 of the Pharmacy Act, 1948 (*hereinafter* “**the Act**”). Appendix-III to the Regulations prescribed the qualification for the position of Pharmacist as Diploma in Pharmacy or Bachelor in Pharmacy.

6. The Cadre Rules were amended by the Bihar Pharmacists Cadre (Amendment) Rules, 2017 and notified on 03.11.2017. The amendment introduced a promotional hierarchy in the cadre in conformity with the Regulations. The qualification under Rule 6(1) remained unchanged. The note permitting Bachelor and Master of Pharmacy degree holders to apply continued.

7. By notification dated 24.07.2019, the Cadre Rules were further amended, whereby Rule 7 was substituted to provide that selection to the post of Pharmacist would be made through

preparation of a merit list on the basis of academic qualifications and experience, and the Bihar Technical Service Commission was designated as the recruiting authority.

8. The State issued recruitment notifications under the Cadre Rules prescribing ‘Diploma in Pharmacy’ as the essential qualification to be appointed to the post of Pharmacist (basic category). Consequently, candidates holding B.Pharm/M.Pharm degrees but not possessing Diploma in Pharmacy instituted writ proceedings before the High Court of Judicature at Patna (*hereinafter* “**High Court**”). In the said proceedings, the Ld. Single Judge vide order dated 10.12.2019, allowed the petitions and permitted candidates possessing Bachelor and Master of Pharmacy degrees to participate in the selection process on the ground that the minimum qualification prescribed under the Rules could not be construed as an essential qualification, if a higher qualification has been recognized under the Rules as valid qualification. On a conjoint reading of Rule 6 and Appendix-I to the Rules, it was held that the rule-making authority had treated B.Pharm and M.Pharm qualifications as valid for appointment to the post in question.

9. The order dated 10.12.2019 passed by the Ld. Single Judge was challenged by the State in a batch of Letters Patent Appeals, the lead matter being L.P.A. No. 158 of 2020. Vide final order dated 10.01.2023, the Division Bench allowed the appeals and

set aside the order of the Ld. Single Judge, holding that possession of higher qualifications without the basic qualification of Diploma in Pharmacy would not render candidates eligible for appointment to the post of Pharmacist.

10. The judgment of the Division Bench dated 10.01.2023 was challenged before this Court by way of Special Leave Petition (Civil) No. 4121 of 2023. Vide final order dated 01.05.2023, this Court disposed of the SLP without entering into the merits of the controversy, taking note of the fact that the recruitment notification impugned therein had been withdrawn and a fresh notification dated 05.04.2023 had been issued, prescribing identical eligibility criteria. Liberty was granted to the petitioners to approach the High Court to assail the subsequent notification, leaving all issues open.

11. The notification dated 05.04.2023 was challenged before the High Court in C.W.J.C. No. 7437 of 2023 (*Sanjeev Kumar Mishra & Ors. v. State of Bihar & Ors.*) along with connected matters, seeking permission for candidates not possessing a Diploma in Pharmacy but possessing B.Pharm and M.Pharm degrees, to participate in the selection process.

12. By interim order dated 17.05.2023, the High Court permitted candidates holding B.Pharm and M.Pharm degrees to apply, subject to the outcome of the writ petitions. Additionally, in view of the earlier Division Bench judgment

dated 10.01.2023, the writ petitions were referred to a Full Bench of the High Court.

13. During the pendency of the proceedings before the Full Bench, the State submitted that amendments to the Cadre Rules were under contemplation and that the recruitment process would be withdrawn. Vide judgment dated 06.11.2023, the Full Bench disposed of the writ petitions as infructuous, while clarifying that in the event recruitment was initiated without any amendment of the Cadre Rules, the Petitioners would be entitled to seek restoration.

14. Subsequently, the State notified the Bihar Pharmacist Cadre (Amendment) Rules, 2024, (*hereinafter* “**2024 Amendment**”) published in the Bihar Gazette on 24.10.2024. By the said amendment, Rule 7 was substituted to provide for selection through a written examination and work experience. The Note in Appendix-I was also substituted to stipulate that Bachelor and Master of Pharmacy certificate holders may be eligible provided they possess qualification of Diploma in Pharmacy.

15. Following the 2024 amendment, the Health Department finalised roster clearance for 2,473 posts of Pharmacists and forwarded a requisition dated 01.11.2024 to the General Administration Department for initiation of recruitment in accordance with the amended Cadre Rules. A recruitment

notification was published by Bihar Technical Service Commission on 10.03.2025 in Newspapers inviting applications from eligible candidates for selection and appointment to the post of Pharmacist as per the amended rules.

16. Aggrieved by the 2024 Amendment and the continued prescription of Diploma in Pharmacy as the essential qualification, the Appellants, upon being unsuccessful in seeking restoration of the earlier writ petitions, instituted fresh writ proceedings before the High Court, challenging the constitutional validity of Rule 6(1) of the Cadre Rules (as amended by the 2024 Amendment). Vide Impugned Order dated 10.04.2025, the Division Bench of the High Court dismissed the writ petitions, upholding the validity of the amended Cadre Rules.

17. Subsequently, the Appellants have approached this Court by way of the present appeals. During the pendency of the present appeals, I.A. No. 152532 of 2025 has been filed by an Intervenor, seeking to be impleaded as Respondent No. 47, being a Diploma Holder and having appeared in the competitive examination held on 04.06.2025 pursuant to the recruitment process initiated under the Cadre Rules.

### **SUBMISSIONS BY THE APPELLANTS**

18. Learned senior counsel appearing on behalf of the Appellants contended that the impugned provisions of the Cadre

Rules, as amended from time to time, are liable to be set aside as being repugnant to the Pharmacy Act, 1948 and the Pharmacy Practice Regulations, 2015 framed thereunder by the Pharmacy Council of India. It was submitted that the Pharmacy Act, 1948 is a Central legislation occupying the field relating to regulation of the profession of pharmacy, including qualifications, registration, professional responsibilities and ethical standards of Pharmacists. The Regulations framed by the PCI in exercise of statutory powers under Sections 10 and 18 of the Act, it was urged, have statutory force and prevail over Rules framed by the State under the proviso to Article 309 of the Constitution of India. The Regulations prescribe the qualification for the post of Pharmacist as Diploma in Pharmacy or Bachelor in Pharmacy. In terms of these Regulations, both categories of candidates are eligible to be appointed as Pharmacists. Fixation of Diploma in Pharmacy as the sole basic qualification under the State Rules runs directly contrary to the Regulations. Further, the Pharmacy Council of India *vide* letter dated 07.10.2022 clarified that the Regulations framed by the PCI are binding on the State Governments to implement the same with immediate effect. Thus, to the extent the Cadre Rules prescribe eligibility criteria inconsistent with the central enactment and the Regulations, they were asserted to be ultra vires.



19. It was further contended that Rule 6(1) of the Cadre Rules prescribes the *minimum* educational qualification as Diploma in Pharmacy and that such prescription cannot be construed as an *essential* qualification so as to exclude candidates possessing higher qualifications in the same discipline. According to the Appellants, the expression “minimum” must be understood contextually as a threshold or cut-off requirement and ordinarily cannot operate to debar recruitment of candidates with higher qualifications, particularly in the absence of an express exclusion. The note in the Appendix-I to the Cadre Rules expressly provides that B.Pharm and M.Pharm pass candidates “may also apply”. The Appellants submitted that the inclusion of such a note in Appendix-I demonstrates that the rule-making authority treated Bachelor and Master degrees in Pharmacy as valid qualifications for appointment to the basic cadre post of Pharmacist. Hence, the State cannot contend that possession of Diploma in Pharmacy alone constitutes the essential qualification, especially when the Rules themselves recognise higher qualifications as acceptable.

20. The learned senior counsel for the Appellants have also submitted that the Bachelor or Master of Pharmacy are higher qualifications as compared to Diploma in Pharmacy. Reliance was placed on Clause 4-B of the Bachelor of Pharmacy Regulations, 2014, which provides for lateral entry of Diploma

holders into the second year of the B.Pharma course. This, according to the Appellants, establishes that Diploma in Pharmacy is a feeder qualification and that the Bachelor degree is a higher academic qualification in the same channel of education.

21. For the next limb of their submissions, the Appellants contended that the Cadre Rules fail the test of proportionality. According to the Appellants, exclusion of higher qualified candidates in the same discipline serves no legitimate State interest and causes disproportionate harm to degree holders, thereby violating Articles 14 and 16 of the Constitution.

22. That the only justification advanced by the State, namely, that diploma holders are better suited for hospital services whereas degree holders are more suited for industrial employment, is based on inferential logic and not on any empirical study. No data or material has been placed on record to establish that diploma holders are more effective as hospital Pharmacists or that their avenues of employment are so limited as to warrant protective exclusion of degree holders. The Appellants contended that the disproportionate impact on degree holders, including denial of public employment opportunities, has been completely ignored, rendering the Cadre Rules arbitrary.

23. That the Pharmacy Act, 1948 and the Regulations framed thereunder clearly define the contours of both Diploma and Degree courses, the eligibility of holders thereof to be registered as Pharmacists, and their professional responsibilities. A Pharmacist, it was urged, may be required to serve not only in hospitals but also in the industrial wing of the Health Department, in drug manufacturing units, and as Drug Inspectors.

24. The Appellants also challenged the validity of Advertisement No. 05/2023 issued by the Bihar Technical Service Commission, contending that it restricted eligibility only to Diploma holders, despite the applicability of the Pharmacy Practice Regulations, 2015 and without appropriate harmonisation of the Cadre Rules. It was urged that several Appellants had been working as Pharmacists on a contractual basis for the last 10 years and that exclusion from regular recruitment deprived them of their right to employment guaranteed under the Constitution [Reliance placed on *Sodan Singh & Ors. v. New Delhi Municipal Committee & Ors.*, (1989) 4 SCC 155].

25. Learned senior counsel submitted that the State cannot be permitted to create sub-classifications among registered Pharmacists solely on the basis of educational qualifications, particularly when all such persons are statutorily recognised as Pharmacists. Such micro-classification amongst registered

Pharmacists serves no rational purpose and lacks any intelligible differentia. That sub-classification without a rational basis is constitutionally impermissible [Reliance placed on ***D.S. Nakara & Ors. v. Union of India*, (1983) 1 SCC 305; *State of Punjab & Ors. v. Davinder Singh & Ors.*, (2025) 1 SCC 1**].

26. That every effort ought to be made to harmoniously construe the Cadre Rules with the central legislation so as to avoid a declaration of invalidity. According to the Appellants, such reconciliation could be achieved by removing the stipulation that only those B.Pharm and M.Pharm holders who also possess a Diploma in Pharmacy would be eligible, thereby bringing the Rules in conformity with the Pharmacy Act and the Regulations of 2015.

27. Lastly, the learned counsel for the Appellants submitted that the High Court erred in law in deciding the writ petitions through a Division Bench despite the fact that an identical question concerning the validity of the eligibility criteria under Rule 6(1) of the Cadre Rules had earlier been considered by a Bench of three Judges. The Full Bench, while closing the writ petitions as infructuous, had expressly granted liberty to seek restoration if the Rules were not substantively amended. It was urged that the amendment introduced vide Notification dated 24.10.2024 did not bring about any substantive change to Rule 6(1). The amendment merely inserted a note in Appendix-I

requiring B.Pharm and M.Pharm holders to additionally possess a Diploma in Pharmacy, thereby continuing the exclusion of candidates who had directly acquired a Bachelor or Master degree in Pharmacy. According to the Appellants, the amendment was illusory in nature and did not address the grievance recorded by the Full Bench.

28. The learned counsel for the Pharmacy Council of India (PCI) submitted that the rationale behind excluding persons of higher degree is non-existent and is hit by the vice of micro-classification, which is impermissible.

#### **SUBMISSIONS BY THE RESPONDENTS**

29. Learned senior counsel appearing for the State submitted that the validity of Clause 6(1) of the Bihar Pharmacists Cadre Rules, 2014 had been upheld by a Division Bench of the Patna High Court in ***Bihar Rajya Berojgar Bheshagya Sangh & Ors. v. State of Bihar & Ors.***, 2016 SCC OnLine Pat 6599. The High Court held that prescription of minimum qualifications for recruitment to a service cadre falls within the exclusive domain of the State Government as the employer and that the scope of judicial review in such matters is limited. Unless the prescription is shown to be arbitrary or lacking any reasonable nexus with the object sought to be achieved, the Court cannot substitute its own view for that of the rule-making authority.

30. It was further submitted that a similar issue arose before the High Court of Jammu and Kashmir in ***J&K Service Selection Recruitment Board & Anr. v. Basit Aslam Wani & Ors.***, MANU/JK/0359/2020, wherein the question was whether a Bachelor's degree in Pharmacy could be treated as a higher qualification vis-à-vis a Diploma when the Rules prescribed Diploma as the requisite qualification for the post of Junior Pharmacist. The High Court held that the two qualifications are distinct and not interchangeable, and that eligibility criteria are within the exclusive domain of the employer. The Special Leave Petitions preferred against the said judgment were dismissed by this Court vide order dated 05.03.2021.

31. The respondents further contested that the wisdom of prescribing minimum eligibility qualifications is a matter of policy and lies outside the scope of judicial review [Reliance placed on ***Zahoor Ahmad Rather & Ors. v. Sheikh Imtiyaz Ahmad & Ors.***, (2019) 2 SCC 404; ***Jyoti K.K. & Ors. v. Kerala Public Service Commission & Ors.***, (2010) 15 SCC 596; ***State of Punjab & Ors. v. Anita & Ors.***, (2015) 2 SCC 170; ***P.M. Latha & Anr. v. State of Kerala & Ors.***, (2003) 3 SCC 541].

32. That the determination of essential qualifications is the prerogative of the employer and that courts cannot rewrite recruitment rules or advertisements by treating desirable or higher qualifications as equivalent to essential qualifications. The

question of equivalence of qualifications also lies beyond the domain of judicial review [Reliance placed on *Maharashtra Public Service Commission through its Secretary v. Sandeep Shriram Warade & Ors.* (2019) 6 SCC 362].

33. It was submitted that the provision for lateral entry of Diploma holders into the B.Pharm course, or overlap in certain subjects, does not render the two qualifications equivalent or place them in the same channel of education. In technical fields, Diploma and Degree courses are designed with different objectives, scope and skill sets. While degree holders may possess higher academic qualifications, diploma holders are trained with a specific focus on practical and technical skills. The State, while framing recruitment rules, is entitled to take these aspects into account.

34. Addressing the plea of repugnancy, learned counsel submitted that the Pharmacy Act, 1948 and the Pharmacy Practice Regulations, 2015 operate in a field distinct from that occupied by the Cadre Rules. The Act does not govern recruitment to public posts, which falls within the policy domain of the State, particularly in matters relating to public health, a subject under List II of the Seventh Schedule.

35. It was contended that the role of the Pharmacy Council of India is to regulate education, maintain standards and oversee registration of Pharmacists, and not to dictate employment

policies of State Governments. The Cadre Rules, it was urged, are in consonance with the Pharmacy Act, 1948. Rule 6(2) itself mandates registration with the Bihar State Pharmacy Council in accordance with the Act. The Cadre Rules merely carve out an eligibility criterion from within the larger pool of registered Pharmacists for appointment to the State service.

36. Learned counsel submitted that the Pharmacy Practice Regulations, 2015 cannot be read to override the Cadre Rules. In the absence of any express statutory mandate requiring States to appoint all categories of registered Pharmacists to public posts, the contention that recruitment must strictly follow the 2015 Regulations was stated to be misconceived.

37. It was contended that the State, as an employer, is required to act fairly and in a non-arbitrary manner, subject to the limitations under Articles 14, 19 and 21 of the Constitution. Consequently, the State Government has consciously exercised its discretion in prescribing Diploma in Pharmacy as the essential qualification, having regard to the nature of duties to be discharged in public hospitals, dispensaries and health centres. Particular emphasis was placed on the fact that Diploma holders are required to undergo 500 hours of compulsory hospital training, which is not a mandatory component of the B.Pharm curriculum. This, according to the State, provides an empirical and rational basis for the classification.



38. That degree holders have not been excluded per se, but are required to possess the essential qualification of Diploma in Pharmacy. Such a stipulation, it was argued, does not violate Articles 14, 16 or 19 of the Constitution, as there exists an intelligible differentia with a rational nexus to the object sought to be achieved, namely, effective delivery of public health services.

39. Lastly, learned counsel submitted that legislation or statutory rules framed under the proviso to Article 309 of the Constitution can be struck down only on the grounds of lack of legislative competence or violation of fundamental rights. No such infirmity exists in the present case.

### **FINDINGS AND ANALYSIS**

40. We have heard the learned counsels appearing for the parties and perused the material placed on record.

41. The core issue that arises for consideration is whether the High Court erred in upholding the constitutional validity of the Bihar Pharmacist Cadre Rules, 2014 (as amended by the Bihar Pharmacist Cadre (Amendment) Rules, 2024). More particularly, the question is whether candidates holding Bachelor or Master of Pharmacy degrees, without possessing a Diploma in Pharmacy, satisfy the minimum eligibility criteria prescribed for appointment to the post of Pharmacist (basic category) under the said Rules.

42. A pharmacist forms an integral part of the public health delivery system. In Government hospitals, dispensaries and primary health centres, the pharmacist is entrusted with responsibilities relating to storage, dispensing and management of medicines, adherence to prescription protocols, maintenance of drug inventories, patient counselling and compliance with regulatory requirements. The public places great trust in the knowledge, skills and professional judgments of pharmacists.

43. The Government of Bihar notified the Bihar Pharmacist Cadre Rules, 2014 on 10.10.2014 in exercise of the powers conferred by the proviso to Article 309 of the Constitution of India.

44. Rule 6(1) stipulates the minimum educational qualification for appointment by direct recruitment to basic category posts, in the following terms:

*“Qualifications. (1) For appointment by direct recruitment to the basic category posts, minimum educational qualification shall be Intermediate/10+2 (Science) pass and passing in all parts (part I, II & III) of Diploma-in Pharmacy from the institution recognised by the Government and a certificate to that effect shall be necessary.”*

45. The note to Appendix-I(1) of the Bihar Pharmacist Cadre (Amendment) Rules, 2024 further clarifies that:

*“Note: B. Pharma & M. Pharma certificate holders may be eligible provided they possess qualification of Diploma in Pharmacy.”*

46. The Appellants contend that Rule 6(1), read with the aforesaid Note, is repugnant to the Pharmacy Act, 1948 and the Pharmacy Practice Regulations, 2015 framed thereunder, on the ground that the central legislation occupies the field of prescription of qualifications for pharmacists. At this juncture, it becomes necessary to examine the object, scope and scheme of the Pharmacy Act, 1948. The Act was enacted to regulate the profession of pharmacy and to constitute pharmacy councils for that purpose. The Statement of Objects and Reasons of the Act reads thus:

*“It is desirable that, as in most other countries, only persons who have attained a minimum standard of professional education should be permitted to practise the Profession of Pharmacy. It is accordingly proposed to establish a Central Council of Pharmacy, which will prescribe the minimum standards of education and approve courses of study and examinations for Pharmacists, and Provincial Pharmacy Councils, which will be responsible for the maintenance of provincial registers of qualified pharmacists. It is further proposed to empower Provincial Governments to prohibit the dispensing of medicine on the prescription of a medical practitioner otherwise than by, or under the direct and personal supervision of, a registered pharmacist.”*

*(emphasis supplied)*

47. Section 2(i) of the Act defines a registered pharmacist as person whose name is entered in the State register for carrying on

the profession or business of pharmacy. Section 10 of the Act stipulates that the Pharmacy Council of India may make the Education Regulations, prescribing the minimum standard of education required for qualification as a pharmacist. Sections 31 and 32 pertain to the registration of a person having the requisite qualification in the register. Further, Section 42 stipulates that no person other than a registered pharmacist or a medical practitioner shall be permitted to practice pharmacy. Therefore, the scope of the Pharmacy Act, 1948, is limited to regulating the educational qualifications and professional conduct in the practice of pharmacy. The Act creates a pool of persons eligible to practise as pharmacists, it does not mandate that every registered pharmacist must be considered for appointment to public posts. Its scope does not extend to conferring a right to public employment.

48. The Pharmacy Practice Regulations, 2015 have been framed in exercise of the powers under Sections 10 and 18 of the Act. The objectives of the Regulations are stated to be improving the quality of health care, ensuring high professional standards among pharmacists, reducing health care costs, and preventing the criminal misuse of medication. Additionally, Clause 2(h) of the Regulations provides the various classes of pharmacy practitioners including community pharmacist, hospital pharmacist, drug information pharmacist, and clinical

pharmacist. These Regulations govern professional practice and conduct. They do not govern public recruitment nor do they restrict the discretion of the State, as an employer, to select candidates from within the larger pool of registered pharmacists for specific public posts.

49. Repugnancy arises only where compliance with one law necessarily results in disobedience of another, or where both laws occupy the same field and are irreconcilable. The Cadre Rules operate in the domain of public employment, while the Act and Regulations operate in the field of professional regulation. It is true that the Rules framed under Article 309 of the Constitution cannot permit the appointment of persons who are not registered pharmacists under the 2015 Regulations, as Section 42 of the Act expressly prohibits such appointments. However, Section 42 cannot be construed to confer a right to public employment merely by virtue of registration. The Act only creates a pool of eligible persons who may be appointed as pharmacists, the 2015 Regulations certify who is technically competent to practice as a pharmacist, while the Cadre Rules reflect the State's policy choice in selecting from the broader pool for public employment. No conflict arises unless the State appoints someone lacking the minimum technical qualification.

50. Once repugnancy is ruled out, the determination of eligibility criteria squarely falls within the domain of the

employer. The power to frame rules under Article 309 of the Constitution of India empowers the State to determine the most suitable qualifications for public posts based on its independent assessment.

51. This position has been recognised by the Patna High Court in ***Bihar Rajya Berojgar Bheshagya Sangh (supra)***. The Court held that:

*“7. ...The fixing of minimum qualification for recruitment to any service cadre under the State is to be decided by the employer i.e., the State. The power of judicial review in such cases is limited to either the provision being unreasonable or having no bearing or nexus to the purpose for which such provision has been made, which in the present case is recruitment to the post of Pharmacist. In the present case, we do not find any repugnancy between the Cadre Rules, 2014 and the Act as both operate in different fields. The Act relates to fixing of the minimum qualification for the purpose of pursuing and obtaining Diploma in Pharmacy. The Act is for the purpose of determining the eligibility to practice as a Pharmacist, whereas, it is for the State to decide as to what qualification it would fix for recruiting persons in the Pharmacist cadre created by the Health Department of the State Government. The purpose of the Act is to maintain the standard of education relating to award of Diploma in Pharmacy for making a person eligible to practice as a Pharmacist. Thus, persons not confirming to the same, are not qualified either for registration or to practice as Pharmacist. However, when it comes to recruitment to a post, it is the*

employer who can set a higher standard which is the case with the Cadre Rules, 2014....”

*(emphasis supplied)*

52. Further, the discretion of the employer to prescribe qualifications has been repeatedly affirmed by this Court and various High Courts. In ***J&K Service Selection Recruitment Board (supra)***, the primary question was whether a Bachelors’ degree in Pharmacy could be treated as higher vis-a-vis the qualification of Diploma prescribed by the Rules for the post of Junior Pharmacist. It was observed by the J&K High Court that:

*“16. ...It is the Government which is competent to decide what should be the qualification prescribed for a post and, in the instant case, the Government has, in fact, made Rules, namely, prescribing the qualifications. These Rules do not contain any provision stating that B. Pharmacy is equivalent to Diploma in Pharmacy or that B. Pharmacy presupposes acquisition of Diploma in Pharmacy. In these circumstances, we are of the view that this Court does not have the power to substitute the Government’s policy or decision in this regard by its own opinion or view, or to add to the Rules what is not contained therein.”*

The SLP filed against the said judgement was dismissed by the Supreme Court, conferring finality to the case.

53. In ***Jyoti K.K. (supra)***, the issue was whether degree holders could be considered for the post of Sub-Engineer (Electrical) in the Kerala State Electricity Board, which had prescribed diploma

in Electrical Engineering as the eligibility criteria. This Court took into consideration Rule 10(a)(ii) of the Kerala State and Subordinate Services Rules 1956, which provided that notwithstanding anything contained in the said rules, higher qualifications which pre-supposes the acquisition of the lower qualification prescribed for the post would also be sufficient for the post. This Court, basing its decision on Rule 10 held that persons with higher qualification would also be eligible. Specifically, it was observed that:

*“7..... when a qualification has been set out under the relevant Rules, the same cannot be in any manner whittled down and a different qualification cannot be adopted. The High Court is also justified in stating that the higher qualification must clearly indicate or presuppose the acquisition of the lower qualification prescribed for that post in order to attract that part of the Rule to the effect that such of those higher qualifications which presuppose the acquisition of the lower qualifications prescribed for the post shall also be sufficient for the post.....*

*9. In the event the Government is of the view that only diploma-holders should have applied to post of sub-Engineers but not all those who possess higher qualifications, either this Rule should have excluded in respect of candidates who possess higher qualifications or the position should have been made clear that degree-holder shall not be eligible to apply for such post.....”*



54. In *Anita (supra)*, applications were invited for JBT/ETT qualified teachers. Under the rules, the prescribed qualification for a JBT teacher included a Matric with a two years' course in JBT training and knowledge of Punjabi and Hindi of the Matriculation standard or its equivalent. This Court held that none of the respondents held the prescribed qualification and an M.A., M.Sc. or M.Com. could not be treated as a higher qualification. *Jyoti K.K. (supra)* was distinguished because the appointing authority had the option of considering appointment of persons with higher qualifications.

55. In *Zahoor Ahmad Rather (supra)*, the post in question was Technician-III in the Power Development Department in the State of Jammu and Kashmir. The relevant stipulation with respect to qualification was Matric with ITI in the relevant trade. The appellants held diploma in Electrical Engineering and were included in the list of disqualified candidates. The Court observed that:

*“26. ....The prescription of qualifications for a post is a matter of recruitment policy. The State as the employer is entitled to prescribe the qualifications as a condition of eligibility. It is no part of the role or function of judicial review to expand upon the ambit of the prescribed qualifications.... The decision in Jyoti K.K. turned on a specific statutory rule under which the holding of a higher qualification could presuppose the acquisition of a lower qualification. The absence of such a rule in*

*the present case makes a crucial difference to the ultimate outcome.”*

56. The Supreme Court in ***Maharashtra Public Service Commission (supra)*** reiterated that the essential qualifications for appointment to a post are for the employer to decide. The court cannot lay down the conditions of eligibility, much less can it delve into the issue with regard to desirable qualifications being at par with the essential eligibility by an interpretive re-writing of the advertisement. Question of equivalence will also fall outside the domain of judicial review. If the language of the advertisement and the rules are clear, the court cannot sit in judgment over the same.

57. In ***Chief Manager, Punjab National Bank & Anr. v. Anit Kumar Das, (2021) 12 SCC 80***, this Court held that the relevancy and suitability of qualifications lie within the exclusive domain of the employer.

58. In ***Puneet Sharma & Ors. v. Himachal Pradesh State Electricity Board Limited & Anr., (2021) 16 SCC 340***, the issue was whether a degree in Electrical Engineering/Electrical and Electronics Engineering is a technically higher qualification than a diploma in that discipline and whether degree-holders would be eligible for appointment to the post of Junior Engineers (Electrical) under the relevant recruitment rules. The Supreme Court took into consideration the decisions in ***Jyoti KK (supra)***,

*Anita (supra)*, *Zahoor Ahmed (supra)* and observed that these were quite different from the facts of this case and permitted degree-holders to apply only because the recruitment rules themselves contemplated such inclusion through express sub-quotas. The Court also relied on a subsequent amendment to the rules declaring that those with higher qualifications are also entitled to apply or be considered for appointment, and thus, allowed the degree-holders also to participate.

59. Therefore, it has been consistently recognised that it is for the employer to determine and decide the relevancy and suitability of qualifications. The power of judicial review in matters of recruitment is limited to examining legislative competence, arbitrariness or violation of fundamental rights, if any. Courts cannot rewrite service rules, determine equivalence of qualifications, or substitute their own assessment for that of the employer. The scope of judicial review in matters of public employment does not extend to questioning the State's wisdom or policy in prescribing the minimum eligibility requirements for a public post. Qualifications are prescribed keeping in view the needs and interests of an institution, an industry or an establishment, as the case may be. Similarly, equivalence of a qualification is not a matter which can be determined in exercise of the power of judicial review. Whether a particular qualification should or should not be regarded as equivalent is a

matter for the State, as the recruiting authority, to determine. The assessment of the expediency, advisability or utility of such prescription of qualifications do not warrant intervention of the Courts unless the same are shown to be perverse. However, at the same time, the employer cannot act arbitrarily in prescribing qualifications for posts.

60. In ***Zahoor Ahmed (supra)***, this Court cautioned,

*“27. While prescribing the qualifications for a post, the State, as employer, may legitimately bear in mind several features including the nature of the job, the aptitudes requisite for the efficient discharge of duties, the functionality of a qualification and the content of the course of studies which leads up to the acquisition of a qualification. The State is entrusted with the authority to assess the needs of its public services. Exigencies of administration, it is trite law, fall within the domain of administrative decision-making. The State as a public employer may well take into account social perspectives that require the creation of job opportunities across the societal structure. All these are essentially matters of policy. Judicial review must tread warily.....”*

61. Tested on the aforesaid principles, the prescription of eligibility criteria of 10+2 with Diploma in Pharmacy by the State cannot be said to be arbitrary or irrational. The State has articulated its rationale with reference to differences in course structure and the comparatively limited avenues of employment available to Diploma holders.

62. The course structure of Diploma in Pharmacy is governed by the Education Regulations, 1991, which has been replaced by the Education Regulation, 2020. The Diploma in Pharmacy course mandates 500 hours of compulsory practical training, including 250 hours devoted to dispensing prescriptions. The 2020 Regulation has refined the scope of training, limiting it to hospital, dispensary, or clinic-based activities. While, under the B. Pharma course Regulations, 2014, degree students are required to undergo 150 hours of practical training and they have the option to undertake the training either in a hospital/ community centre or within the pharmaceutical industry. The diplomates and graduates are trained in different subjects. Merely because there is a provision for lateral entry of diplomates in the second year of B. Pharm course, it does not render the degree an in-line higher qualification. A qualification in one stream does not presuppose a qualification in another. Furthermore, the diplomates have limited employment avenues as compared to degree holders. Thus, the decision of the State in making possession of a Diploma an essential qualification for appointment cannot be said to be arbitrary. The State has merely identified a narrower catchment of candidates it considers most suitable for a particular purpose, from within the larger pool registered pharmacists.

63. This policy rationale finds reinforcement in a decision by the Patna High Court in the case of ***Bihar State Power (Holding) Company Ltd. & Ors. v. Md. Asif Hussain & Ors. in LPA No. 1416 of 2018 in Civil Writ Jurisdiction Case No. 11096 of 2018***, wherein it was held that,

“....it was a matter of policy to offer the employment only to Diploma holders who have no avenues that are available to Degree holders. The Degree holders have job opportunities on the post of Assistant Engineers, Executive Engineers and other posts which are not available to Diploma holders and they are confined only to offer themselves for the post of Junior Engineers under the scheme of the conditions of service of the appellant company. Thus, the decision to offer the post of Junior Electrical Engineer to only Diploma holders does not amount to such prohibition against Degree holders that may allow us to invoke Article 14 and 16 of the Constitution of India in favour of the Degree holders who still have other job opportunities....”

*(emphasis supplied)*

64. Additionally, there is no absolute exclusion of graduate or postgraduate degree holders. They remain eligible, provided they possess the essential qualification of Diploma in Pharmacy. No disproportionate harm is caused to them so as to attract Articles 14 or 16 of the Constitution.

65. In view of the foregoing discussion, we find no infirmity in the reasoning or conclusion of the Division Bench in upholding the validity of the Cadre Rules.

66. Accordingly, the appeals are dismissed. Contempt Petition (@ Diary No. 44226 of 2025) is also dismissed. I.A. No. 152532 of 2025 is allowed. Other pending applications, if any, shall stand disposed of. No order as to costs.

.....J.  
[M. M. SUNDRESH]

.....J.  
[SATISH CHANDRA SHARMA]

New Delhi  
January 16, 2026.