

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No. 16284 of 2013(O&M)
Date of Decision: 13.1.2015**

Man Singh

....Petitioner

Versus

Pt. B.D.Sharma University of Health Science Rohtak through its
Registrar and another

.....Respondents.

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. Surinder Gaur, Advocate
for the petitioner.

Mr. Ramesh Hooda, Advocate
for the respondents.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

RAMESHWAR SINGH MALIK J. (Oral)

Present writ petition is directed against the impugned communication dated 15.7.2013 (Annexure P-14), whereby claim of the petitioner for appointment to the post of Staff Nurse (male) was declined, as the petitioner was found ineligible.

Notice of motion was issued and pursuant thereto, written statement was filed on behalf of the respondents.

Learned counsel for the petitioner submits that pursuant to the advertisement No. 1/2012 (Annexure P-1), petitioner applied for the post of Staff Nurse (male). His application was scrutinized and

was found in order. Petitioner was issued roll No. 130765 (SC-ESM). He further submits that the petitioner was called for interview vide letter dated 18.3.2013 (Annexure P-9). Petitioner appeared in the interview, but when he did not get any response from the respondents, he approached them by way of legal notice dated 4.7.2013 (Annexure P-13). While sending their reply to the legal notice vide impugned communication dated 15.7.2013 (Annexure P-14), respondents made their stand clear illegally declaring the petitioner ineligible on the cut off date, i.e. 31.12.2012. He concluded by submitting that once the petitioner has been issued interview letter Annexure P-9, there was no scope for declaring him ineligible. He prays for setting aside the impugned communication Annexure P-14, by allowing the present writ petition.

Per contra, learned counsel for the respondents places reliance on clause 10 of the terms and conditions of the advertisement letter, to contend that the petitioner was admittedly not qualified on 31.12.2012. He further submits that neither his result of four years degree course of B.Sc Nursing had been declared on 31.12.2012, nor he was registered as A-Grade Nurse and Midwife (male) with the Haryana Nurses Registration Council. He would next contend that since the petitioner was lacking the minimum requisite qualification at serial No. ii and iii, as pointed out in the advertisement itself, he was rightly not found eligible for appointment to the post of Staff Nurse (male).

Learned counsel for the respondents submits that so far as

issue of issuance of interview letter Annexure P-9 in favour of the petitioner was concerned, it was only because of inadvertent mistake on the part of official concerned. Interview letter was sent but the deficiencies pertaining to the eligibility of the petitioner were also pointed out in the interview letter itself. He submits that passing of the written examination and appearing in the interview will not grant any indefeasible right in favour of the petitioner. He concluded by submitting that during the pendency of the present writ petition, petitioner applied pursuant to the later advertisement and he was selected. Thereafter, appointment letter was also sent in favour of the petitioner and he has joined service in the respondent-department. He prays for dismissal of the writ petition.

Having heard the learned counsel for the parties at considerable length, after careful perusal of record of the case and giving thoughtful consideration to the rival contentions raised, this Court is of the considered opinion that present one has not been found to be a fit case, for exercising its writ jurisdiction under Articles 226/227 of the Constitution of India, at the hands of this Court. To say so, reasons are more than one, which are being recorded hereinafter.

It is a matter of record and not in dispute that eligibility of the competing candidates was to be determined as on 31.12.2012. It is also not in dispute that petitioner had not acquired the basic qualification for the post in question up to 31.12.2012. Relevant Clauses 10 and 11 of the advertisement Annexure P-1 as well as

Clauses ii and iii whereby basic qualification was required, read as under:-

"10. The eligibility of the candidate, i.e. qualification, experience and age will be considered up to the last date of receipt of applications, i.e. 31.12.2012.

11. The applicant should ensure while applying for the post that he/she is eligible for the advertised post of Staff Nurse as per advertisement.

Xx xx xx xx

ii) Certificate in General Nursing & Midwifery from a recognised institution or equivalent qualification from an institution recognized by the India Nursing Council.

Or

Any recognised higher qualification (B.Sc/M.Sc Nursing)

iii) Should be registered A-Grade Nurse and Midwife with Haryana Nurses Registration Council."

It is also a matter of record that result of the petitioner for his B.Sc Nursing four years degree course came to be declared on 31.1.2013. Even the declaration of result of the petitioner on 31.1.2013 would not make him eligible because he was still not registered as A-Grade Nurse and Midwife (male) with the Haryana Nurses Registration Council, which was also one of the qualifications required as per the advertisement Annexure P-1. It is also undisputed that the petitioner got registered himself with the Haryana Nurses Registration Council on 14.2.2013.

A combined reading of both the above said clauses No. 10

and 11 as well as qualifications at serial No. ii and iii, reproduced above, would make it clear that the petitioner was not eligible for the post in question on 31.12.2012, which was relevant date for determining the eligibility of the petitioner. Having said that, this Court feels no hesitation to conclude that the respondent authorities did not commit any error of law, while taking their clear stand in para 5 of the impugned communication Annexure P-14, replying to the legal notice of the petitioner. Since the impugned action taken by the respondent authorities was factually correct and legally justified, the same deserves to be upheld.

The argument raised by the learned counsel for the petitioner that petitioner has not concealed any fact from the respondent authorities at the time of applying for the post in question and he was also called for interview after passing the written examination, has been duly considered but not found worth acceptance. It is so said, because passing the written examination and appearing in the interview will not grant any indefeasible right to the petitioner, particularly when the respondent authorities have specifically pointed out the deficiencies in the interview letter itself.

It is the settled principle of law that even the selected can be denied appointment if the employer has got sufficient reasons to do so. In the present case, petitioner was not found eligible on the relevant date, i.e. 31.12.2012, when his eligibility was to be determined as per clause 10 and 11 of the advertisement Annexure P-1. Under these circumstances, it can be safely concluded that no

prejudice of any kind, whatsoever, has been caused to the petitioner.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that present writ petition is wholly misconceived, bereft of merit and without any substance. Thus, it must fail. No case for interference has been made out.

Resultantly, instant writ petition stands dismissed, however, with no order as to costs.

(RAMESHWAR SINGH MALIK)
JUDGE

13.1.2015
AK Sharma