

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.8555 of 2011

DATE OF DECISION: OCTOBER 1, 2015

AMARJEET KAUR

...PETITIONER

VERSUS

UNION OF INDIA & OTHERS

...RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE M. JEYAPPAUL.
HON'BLE MR. JUSTICE DARSHAN SINGH.**

1. Whether the judgement should be reported in the digest? Yes

PRESENT: MR. ROHIT SETH, ADVOCATE FOR THE PETITIONER.
MR. VIKAS CHATRATH, ADVOCATE FOR THE RESPONDENTS.

M. JEYAPPAUL, J.

1. The writ petitioner Mrs.Amarjeet Kaur sought a direction to the respondents to offer appointment to her on the post of Nursing Superintendent and also sought to declare as ineligible Mrs.Satvinder Kaur and Mrs.Madhu Dutta, both Assistant Matrons, inasmuch as they did not have 3 years service for promotion to the post of Nursing Superintendent. The Central Administrative Tribunal, Chandigarh Bench (for short 'Tribunal') dismissed the plea of the writ petitioner. Hence, the present writ petition has been filed by her.

2. The writ petitioner has contended that she joined as a Staff Nurse on 12.7.1991 and was promoted to the post of Nursing Sister on 26.11.2001. The sum and substance of her contention is that in spite of the fact that Mrs.Satvinder Kaur and Mrs.Madhu Dutta, who were Assistant Matrons, did not possess 3 years regular service in their cadre, they were

considered by the Departmental Promotion Committee (for short 'DPC') for promotion to the post of Nursing Superintendent, whereas the petitioner who got 3 years experience on the post of Nursing Sister was not considered for promotion. It is her contention that as per the Chandigarh Health Department Services (Group 'C' Miscellaneous and Para Medical Categories of Staff) Recruitment Rules, 2002 (for short 'Recruitment Rules'), the post of Nursing Superintendent shall be filled up by way of promotion from Matron, Assistant Matron or Sister Tutors with 3 years experience in the cadre.

3. The respondents contended that as per the Recruitment Rules only Sister Tutors should have acquired 3 years regular service and not Departmental Matron or Assistant Matron. Assistant Matrons were promoted from the post of Nursing Sisters/Sister Tutors having 5 years experience. The pay scale of Assistant Matron is ₹10300-34800 + ₹4200 Grade Pay and Sister Tutor is ₹10300-34800 + ₹3800 Grade Pay and Nursing Sister is ₹10300-34800 + ₹3800 Grade Pay.

4. The short question that arises for consideration is whether 3 years experience was required for the feeder cadre Departmental Matron, Assistant Matron and Sister Tutors to compete for the promotion to the post of Nursing Superintendent as per Recruitment Rules.

5. There is no dispute to the fact that the Grade Pay fixed for Assistant Matron is higher than the Grade Pay fixed for Sister Tutor. Therefore, these two posts could not be considered equal in status at the time when the subject promotion was taken up for consideration by the

DPC.

6. Learned counsel appearing for the writ petitioner submitted that the Grade Pay of Assistant Matron and Sister Tutor has been equalized subsequent to the subject promotion. We are not concerned with the development that took shape after the subject promotion which was the cause of dispute. Therefore, such a development does not have a bearing on the issue involved in the writ petition.

7. On a thorough perusal of the above Recruitment Rules, it is found that Sister Tutor is the higher post than that of Nursing Sister and Assistant Matron is higher post to that of Sister Tutor. As far as the post of Nursing Superintendent is concerned, an Assistant Matron is eligible to compete for the above promotion post, whereas Sister Tutor with 3 years' regular service alone is eligible to compete the promotion to the post of Nursing Superintendent.

8. It was contended by learned counsel appearing for the writ petitioner that 3 years' regular service was a *sine qua non* for the Assistant Matron and Sister Tutors.

9. We find that Sister Tutor's post is the feeder category for promotion to the post of Assistant Matron. Therefore, the Department would not have thought it fit to treat Assistant Matron and Sister Tutor on equal footing. Under such circumstances, it can be safely held that the Department has prescribed 3 years' regular service only for the Sister Tutor which is below the rank of Assistant Matron. As the Assistant Matron is just below the rank of a Nursing Superintendent, they can compete for the

post of Nursing Superintendent even without 3 years regular service. Even otherwise, in the said Recruitment Rules, it has been prescribed as follows:

“By promotion; Departmental Matron, Asstt. Matron or Sister Tutors with three years regular service as such in the cadre”.

10. Of course, it is an admitted position that there is now no existing cadre as Departmental Matron. If 3 years' experience was required for all the three cadres, the Chandigarh Administration while formulating the Rules would have inserted 'or' in between Departmental Matron and Assistant Matron. The word 'or' is found only in between Assistant Matron and Sister Tutors. There is only a 'coma' found in-between Departmental Matron and Assistant Matron. For all these reasons, we are of the considered view that the Chandigarh Administration has insisted 3 years' experience only for Sister Tutors and not for Assistant Matron.

11. We find that there is no merit in the claim made by the writ petitioner. The Department has rightly insisted 3 years' experience for Sister Tutor, whereas no experience was insisted for Assistant Matron which is a higher post than that of Sister Tutor.

12. Therefore, the writ petition fails and it stands dismissed.

(M. JEYAPPAUL)
JUDGE

October 1, 2015
Gulati

(DARSHAN SINGH)
JUDGE