

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

LPA No.1653 of 2013 (O&M)

Date of Decision: 30.04.2015

Gurmeet Kaur & Ors.

... Appellants

VS.

State of Punjab & Ors.

... Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR.JUSTICE P.B. BAJANTHRI**

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?

Present: Mr. Gurminder Singh, Senior Advocate with
Mr. RPS Bara, Advocate for the appellants

Mr. Aman Bahri, Addl. AG Punjab

Mr. Munish Jolly, Advocate for respondent No.3

Mr. GS Attariwala, Advocate for respondents No.7&8

SURYA KANT, J. (Oral)

(1) The appellants and the private respondents joined the Department of Health and Family Welfare, Punjab as Staff Nurse/Multipurpose Health Worker (Female). In the said common cadre, the private respondents are senior to the appellants. Based upon their seniority, private respondents No.4 to 8 were promoted to the posts of Sister Tutor/Public Health Nurse (Teaching). Their promotion was challenged by the appellants on the ground that private respondents did not possess the requisite/recognized Degree in B.Sc. (Nursing) prescribed for the promotional post of Sister Tutor/Public Health Nurse (Teaching).

(2) Learned Single Judge has rejected the appellants' claim taking notice of the fact that once the private respondents are found to be in possession of the qualification duly recognized under Section 11 of the Indian Nursing Council Act, 1947, on the basis of which they are entitled to be enrolled in any State Register as Nurse/midwife etc. coupled with the fact that the private respondents are duly registered with the Punjab Nurses Registration Council established under the Punjab Nurses Registration Act, 1932, it can be safely inferred that they possess the requisite qualification.

(3) We have heard learned counsel for the parties at considerable length and are of the considered view that no interference in the order passed by learned Single Judge is called for. We say so for the reasons that firstly, the appellants have placed reliance on certain recommendations made by the Indian Nursing Council to the effect that the degree of B.Sc. (Nursing) through Distance Education Programme awarded by Indira Gandhi National Open University (IGNOU) is recognized for the limited purpose of nursing duties and not for teaching purposes. There is nothing on record to show that the resolution passed by Indian Nursing Council was approved by the Competent Authority prescribed under the Statute or it culminated into notified Regulations prescribing such an eligibility condition for appointment of a Sister Tutor/Public Health Nurse (Teaching).

Secondly, learned Single Judge has rightly found that the B.Sc. Nursing degree imparted by IGNOU is one of the recognized qualifications under the 1947 Act therefore no further limitations can be imposed thereupon. Thirdly, the State Nursing Council as well as the State Government have recognized that qualification and the private respondents are duly registered with the State Nursing Council. Fourthly, recruitment to the post of Sister Tutor/Public Health Nurse (Teaching) is governed by statutory Service Rules known as the Punjab Health and Family Welfare Technical (Group-C) Service Rules, 2007 and as per Appendix 'B' of these Rules, appointment to the aforementioned post is to be made *"from amongst the Staff Nurses who have an experience of working as such for a minimum period of 5 years and who possess a requisite qualification prescribed for direct recruitment of Sister Tutor"*. As regards direct recruitment, the only requirement is that a candidate *"should possess the Degree of Bachelor of Science and Nursing from a recognized University or institutions and such a candidate should be registered under the Punjab Nursing Registration Act, 1932"*.

(4) The private respondents indeed possess both the qualifications prescribed for direct recruitment, namely, they possessed B.Sc. in Nursing from a recognized University and they are duly registered under the 1932 Act. Similarly, they were in possession of the requisite experience of 5 years in the cadre of

Staff Nurses at the time of their promotion. Thus, the private respondents being fully eligible for promotion to the post, under the statutory Rules, no fault can be found with the action of the authorities or with the order of learned Single Judge.

(5) Dismissed.

(Surya Kant)
Judge

30.04.2015
vishal shonkar

(P.B. Bajanthri)
Judge