

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

**CWP No. 17110 of 2013
Date of Decision:- 14.12.2016**

Gurmeet Kaur

....Petitioner

vs.

State of Punjab and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. P.S. Dhaliwal, Advocate,
for the petitioner.

Mr. Avinit Avasthi, AAG, Punjab.

Mr. Jagjit Singh, Advocate,
for respondent No. 6.

Mr. Tarun Singla, Advocate,
for respondents No. 12 and 22.

DAYA CHAUDHARY, J.

Petitioner has approached this Court under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of Certiorari for quashing of the selection list prepared by the respondents to the posts of Staff Nurse for Backward Class category being illegal and prepared in an arbitrary manner by ignoring the merit of the candidates. A further prayer has also been made for issuance of direction to the respondents to prepare the fresh merit list after considering the petitioner, who is higher in merit than the selected candidates i.e. respondents No. 4 to 24.

Briefly, the facts of the case, as made out in the present petition, are that an advertisement by way of public notice dated

26.07.2011 was issued by respondent No. 3 for recruitment of various posts in the Health Department of Punjab including the posts of Staff Nurse. Total 60 posts of Staff Nurse were kept reserved for Backward Class category. Petitioner, by considering herself to be eligible, applied for said post. A written test was conducted on 6.11.2012 and the petitioner appeared and secured 46.40 marks. Counselling for the post of Staff Nurse was held on various dates but petitioner appeared on 28.2.2012. Five marks for higher qualification i.e. B.Sc. (Post Basic) and 2 marks for the experience were awarded as per criteria mentioned in the advertisement. Total 53.4 marks were obtained by the petitioner including 46.40 marks obtained in the written test. During counseling, the petitioner was informed that her selection would be subject to the submission of degree and second year DMC of B. Sc. (Post Basic) and experience certificate of one year upto 19.9.2011. Petitioner submitted her provisional intimation of the degree of Bachelor of Nursing (Post Basic) issued by Baba Farid University of Health Sciences, Faridkot along with provisional certificate issued by the College as well as one year experience certificate. The result was declared on 13.6.2013 but the name of the petitioner was not there in the list of successful candidates in the category of Backward Class. Hence, the petitioner has challenged the selection on the ground that she was much more meritorious and more experienced vis. a vis. selected candidates in the category of Backward Class but still she was not considered.

Learned counsel for the petitioner submits that respondents No. 4 to 24 were lower in Merit vis.-a-vis. the petitioner. Learned counsel for the petitioner also submits that selection to the posts of Staff Nurse in the

Backward Class category is liable to be set aside being illegal and arbitrary by ignoring merit of the petitioner. Learned counsel for the petitioner has relied upon the judgment of this Court passed in **Satish Kumar vs. State of Haryana and others**, 2012(2) SCT 83 in support of his contentions.

In response to notice of motion, reply has been filed which is on record. Learned State counsel submits that petitioner has wrongly claimed her marks as 53.40, whereas, she had concealed the material facts from this Court. The petitioner was not fulfilling the conditions of the advertisement as the qualification of the petitioner should have been prior to the last date of filing of the application i.e. 19.9.2011, therefore, she was not entitled for 5 extra marks for higher qualification as she passed the higher qualification on 19.10.2011 i.e. after the last date of submission of application form. Selected candidates i.e. respondents No. 4 to 24 secured more marks than the petitioner in the written test and were granted marks for higher qualification also and accordingly they were selected.

Heard arguments of learned counsel for the petitioner as well as learned State counsel. I have also perused the advertisement and other relevant documents available on the file.

As per case of the petitioner, she secured 53.40 marks, whereas, respondent Nos. 4 to 24 secured 53.20 to 51.20 marks respectively. It is the contention of learned counsel for the petitioner that the petitioner was having more marks than respondents No. 4 to 24 but as per condition of the advertisement, the qualification of the candidates should be prior to last date of submission of applications i.e. 19.9.2011. The petitioner was not eligible for grant of 5 extra marks for higher qualification as she was not possessing

higher qualification on the last date of filing of the application i.e. 19.9.2011. The list attached as Annexure P-3 with the petition is not the final merit list. Even the petitioner did not submit the documents during counseling. She obtained 46.40 marks in the written test and 2 marks for experience and the total marks comes to 48.40. By considering her merit, she was not placed in the merit list as respondents No. 4 to 24 secured more than 51.20 marks and were much more meritorious vis.-a-vis. the petitioner. Moreover, the judgment cited by learned counsel for the petitioner is not applicable to the facts and circumstances of the case.

The qualification acquired after the last date of submission of application form was not considered and the candidates, who were possessing the requisite qualifications as on that date alone, were eligible to apply and were considered for selection/appointment. Since the petitioner was not possessing the higher qualification on the last date of submission of the application and, therefore, the marks were not awarded to her. Petitioner has wrongly calculated her marks of higher qualification whereas the same were not considered by the respondents. The contentions raised by the learned counsel for the petitioner cannot be accepted and as such the petition being devoid of any merit is hereby dismissed.

December 14, 2016
poonam

(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

No