

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

**Civil Writ Petition No.16043 of 2016
Date of Decision: 09.08.2016**

Sukhwinder Kaur and another

..... Petitioners

Versus

The State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Veneet Sharma, Advocate for the petitioners.

JASWANT SINGH, J. (Oral)

The two petitioners, namely, Sukhwinder Kaur and Sukhjot Kaur have laid challenge to the order dated 01.08.2016 (**Annexure P-10**), passed by the Government, whereby they have been reverted from the post of Matron to that of Nursing/Ward Sister; further prayer is for a mandamus granting promotion to the post of Nursing Sister w.e.f. 30.08.2011, instead of 17.10.2014, in view of the benefit of 3% reservation in promotion extended to the physically handicapped category, to which both the petitioners concededly belong.

Learned Counsel for the petitioners heard at length.

It is an admitted fact that Government of Punjab by issuing Instructions dated 14.12.2011 (**Annexure P-2**) enforced reservation in promotion to the handicapped employees in Group A, B, C and D posts to be implemented w.e.f. 06.03.2011. The petitioners at that time were working as Staff Nurse i.e. a post lower than the Nursing Sister/Ward Sister, w.e.f. 12.11.1986 and 12.08.1987 respectively. They were appointed by way of direct recruitment under the physically handicapped category.

post of Nursing Sister and the petitioners' case did not fall within the zone of consideration on account of their seniority. Subsequently also on 24.07.2013, another batch of 08 Staff Nurses was promoted and the petitioners still did not fall within the zone of seniority. Both the petitioners were finally promoted as Nursing Sisters on 17.10.2014 by giving them the benefit of reservation for physically handicapped category as per the roster point. Thereafter, they were also promoted as Matron on 21.01.2016 against the roster points reserved for the physically handicapped category in the cadre of Matron. Admittedly, the post of Matron is governed by the statutory Rules, 1964 framed under the proviso to Article 309. As per Rule 6 read with Appendix B, it is provided that no person shall be appointed as Matron, who does not, *inter alia*, possesses the experience of 05 years as Staff Nurses and 03 years as Ward/Nursing Sister. Since the petitioners did not possess 03 years experience as Ward/Nursing Sister, a Show Cause Notice dated 25.05.2016 (**Annexure P-6**) was issued seeking to revert the petitioners. Consequently, the impugned speaking order dated 01.08.2016 (**P-10**) was passed ordering their reversion to the post of Nursing Sister on account of non-fulfillment of the statutory requirement of possessing 03 years as Ward/Nursing Sister.

In the present writ petition, the prayer is, *firstly*, for a mandamus directing the respondents to consider their cases for promotion as Nursing/Ward Sisters w.e.f. 30.08.2011 and subsequently on 24.07.2013 when promotions were made by ignoring the roster points following to the share of the physically handicapped category. Thereafter, by antedating their promotion, the necessary relief qua experience for the post of Matron be

extended.

At the time of hearing, realising that the causes of action are separate, the petitioners reserve their rights to seek their promotions as Nursing/Ward Sisters w.e.f. the year 2011 and 2013 against the roster points reserved for physically handicapped category and, therefore, withdraw the said relief.

His arguments qua reversion have been heard.

In the light of the conceded non-fulfillment of the statutory requirement of possessing 03 years as Ward/Nursing Sister, no case for interference is made out as there is no illegality.

Dismissed. However, the petitioners would be free to seek their relief qua retrospective promotion as Nursing/Ward Sister against the reserved roster points, from the year 2011 and/or 2013 as explained hereabove, in accordance with law.

August 09, 2016

Gagan

(JASWANT SINGH)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>No</i>