

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

CWP No. 27426 of 2013
Date of decision: 10.05.2016

Gurtej Kaur and another

....Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. R.K. Arora, Advocate,
and Mr. Satya Vir Singh, Advocate,
for the petitioners.

Mr. APS Mann, Addl. A.G., Punjab.

G.S.SANDHAWALIA, J. (Oral)

The petitioners' request for higher pay for performance on the post of Staff Nurse has been rejected vide order dated 23.04.2013 (Annexure P-11). The reason for rejection is that the petitioners, who were working as Multi Purpose Health Workers (MPHW), had made request for adjustment as Staff Nurse on account of their family exigencies. Petitioner no. 1 was deputed from the post of MPHW from the Primary Health Center, Sherpur, District Sangrur to the post of Staff Nurse at Civil Hospital, Dhuri. Similarly, petitioner no. 2 was also adjusted as Staff Nurse at Civil Hospital, Mukerian and allowed to work at the Civil Hospital, Dasuya from the post of the ANM at Primary Health Center, Kartarpur.

It is, thus, apparent that the petitioners were adjusted on account of their family exigencies and in normal routine, they were not assigned the duties. They were beneficiaries and were given the said duties on account of the adjustment made on the basis of their request and also,

vide the order of posting, it had been made clear that they would not get any financial benefits for performance of duties on this post.

The same was made on 19.08.2004 in the case of petitioner no. 1 and similarly, in the case of petitioner no. 2 on 26.04.2007. The petitioners did not agitate in any manner for their claim thereafter. After that, they were promoted in due course and thereafter, they approached this Court in the year 2013 for seeking the said relief and directions were issued to consider the case which has now been rejected. Reliance upon the judgment of the Apex Court in *Secretary-cum-Chief Engineer, Chandigarh vs. Hari Om Sharma, 1998 (5) SCC 87*, in such circumstances, would not take the petitioners far. In the said case, there was no such circumstance wherein the petitioners had been adjusted on their request and in the present case, the State had gone out of the way to give them a higher assignment. Thus, they cannot now turn around and claim the higher scale of pay as they are estopped from doing so in view of the conditions imposed in the posting orders and their affidavits also filed.

In the peculiar facts and circumstances, this Court is of the opinion that the benefit which is now claimed at a belated stage is not tenable. Accordingly, the present writ petition is dismissed.

10.05.2016
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(G.S. SANDHAWALIA)
JUDGE