

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

Sr. No. 203

CWP-7760-2013
Decided on : 30.03.2016

Saroj Bala and another

..... Petitioners

VERSUS

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

To be referred to Reporters or not?

Whether the judgment should be reported in the digest?

Present: Mr.Wazir Singh, Advocate, for the petitioner No.2-Pinki.

Petition qua petitioner No.1-Saroj Bala,
dismissed vide order dated 26.02.2016.

Mr.Harish Rathee, Senior DAG, Haryana,
for respondents No.1 to 4.

Mr.Vineet Dhanda, Advocate, for respondent No.7.

DEEPAK SIBAL, J.

Through advertisement issued in the month of November, 2011 (Annexure P-1), the Civil Surgeon-cum-Member Secretary, District Health and Family Welfare Society, Jind, invited applications for making contractual appointments to several posts including a post of Multi Purpose Health Worker (Female) (MPHW)(F) in village Dhatrath, District Jind. The petitioners applied for the same but after the selection process and publication of the results, no offer of appointment was made to them since for the lone post of MPHW(F), village Dhatrath, District Jind one Rekha Rani, who was at merit No.1, was appointed. As per the published result sheet, Mamta Devi and Suman were kept at waiting list

No.1 and 2 respectively, whereas petitioner No.2-Pinki, figured next on merit. On complaints having been filed with regard to irregularities in the selection process, the respondents conducted an inquiry which found that the afore-referred Rekha Rani, Mamta Devi and Suman had never appeared for the interview but in spite of the same had been placed in the merit list. Apparently, due to the afore-mentioned findings of the inquiry, Rekha Rani resigned from her post and left the job as a result whereof the post was re-advertised but petitioner no.2 did not apply for the same. In the selection process conducted on re-advertisement, one Manju Kumari was selected and appointed who occupies the post till date.

Through the present petition, petitioner No.2 seeks appointment as MPHW(F) in village Dhatrath, District Jind.

On 26.02.2016 learned counsel for the petitioners had stated that he does not press the petition qua petitioner No.1 and resultantly only the issues raised on behalf of petitioner No.2 are being adjudicated upon.

After hearing learned counsel for the parties and perusing the record with their able assistance, I am of the opinion that in the selection process which took place in the year 2011, petitioner No.2 had been wronged. As per the published result sheet for the selection held for the lone post of MPHW(F) in village Dhatrath, District Jind, one Rekha Rani who was shown at merit No.1 was appointed whereas Mamta Devi, Suman and petitioner No.2 were shown at merit No.2, 3 and 4 respectively. On complaints having been made, the respondents conducted an inquiry and found, amongst other irregularities, that the

afore-referred Rekha Rani, Mamta Devi and Suman had never even appeared for the interview but had still been shown in the merit list. Having not appeared in the interview which was the sole basis for selection, they had no right to be shown in the merit list. Petitioner No.2 having appeared for the interview and being next in the order of merit, thus, had a right to be offered appointment. However, these selections took place in the year 2011 and were contractual in nature for a period of only one year which is long over. Further, the afore-referred Rekha Rani, who had been wrongly appointed, had resigned and left. This was apparently on account of the afore-referred inquiry. After her resignation the post was re-advertised and as per the selection which ensued, one Manju Kumari was appointed who continues to hold the post till date. It is the admitted position that the selection and appointment which took place on re-advertisement is not challenged by petitioner No.2. Manju Kumari is also not a party before this Court in the present proceedings.

In view of the aforesaid facts, though petitioner No.2 deserved to be appointed on merit in place of the afore-referred Rekha Rani but she cannot be offered appointment in pursuance to the advertisement and selection held in the year 2011 as the selection was contractual in nature and for a period of one year which has already elapsed. Thereafter on re-advertisement fresh selection and appointment has taken place which is again contractual in nature for which petitioner No.2 neither made any application nor has laid a challenge to the same. The incumbent who was selected and appointed in pursuance to the re-advertisement and presently holds the post in question, is also not a party

to the present proceedings.

Now, the question arises what relief can be granted to petitioner No.2?

As already observed, petitioner No.2 cannot be offered appointment but for having been wrongfully denied appointment in the year 2011, I deem it just and proper to award her compensation which is quantified at Rs.50,000/-.

The next question to be determined is that who is to pay the awarded compensation?

Why should the compensation be paid out of State funds when apparently individuals are at fault?

In view of the above, the Additional Chief Secretary, Department of Health, Government of Haryana, is directed to order the holding of an inquiry, in accordance with law, to find out as to who is responsible for the irregularities committed during the selection process conducted in pursuance to afore-referred advertisement dated 04.11.2011 and the awarded compensation to be initially disbursed by the State, be recovered from the person(s) found guilty in that inquiry.

The aforesaid inquiry be completed within three months from the date of receipt of a certified copy of this order and a compliance report in this regard be filed before this Court.

The writ petition stands disposed of in the above terms.

For compliance, list on 29.07.2016.

30.03.2016
shamsher

[DEEPAK SIBAL]
JUDGE