

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.11619 of 2013

Date of Decision:-14.02.2017.

Kiran Bala

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. N.C. Kinra, Advocate for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana.

P.B. BAJANTHRI, J. (Oral)

2.) In the instant petition, petitioner has sought for quashing of order dated 9.5.2013 (Annexure P-12) passed by the Director General of Health Services, Haryana-respondent No.2 by which her services have been reverted from the post of Public Health Nursing to that of Staff Nurse.

3.) Learned counsel for the petitioner submitted that the petitioner was promoted to the post of Public Health Nursing on 27.10.2009 among others. Smt. Rekha Sharma and another approached this Court seeking writ of *mandamus* to promote them to the post of Public Health Nursing at par with the juniors to them. This Court disposed of their writ petition directing the respondents to consider their representation on 03.04.2012 in CWP No.23298 of 2011. While considering the grievance of Smt. Rekha Sharma

and another pursuant to the direction passed in CWP No.23298 of 2011,

respondent No.2 noticed that the petitioner was not eligible for the post of Public Health Nursing as she do not fulfill certain qualification prescribed for the post. Thus, a show cause notice was issued to the petitioner on 10.1.2011. The second respondent while considering petitioner's reply merely stated 1998 rules and reply to show cause notice examined and proceeded to pass order of reversion on 9.5.2013. On the other hand, learned counsel for the petitioner pointed out that the petitioner has submitted her reply and each of the contentions raised in reply has not been considered. Therefore, in not considering the reply to the show cause notice, the impugned order of reversion dated 9.5.2013 is liable to be set aside.

4.) On the other hand, learned counsel for the respondents submitted that the petitioner is not eligible for the post of Public Health Nursing as she do not fulfill the requisite qualification prescribed for the post which is stated in the impugned order. Hence, there is no infirmity in the order of reversion dated 9.5.2013.

5.) Heard learned counsel for the parties.

6.) Crux of the matter in the present petition is whether the second respondent while passing the order dated 9.5.2013 by which petitioner has been reverted from the post of Public Health Nursing to that of Staff Nurse, her reply to show cause notice has been taken into consideration or not. Admittedly, it is evident that the second respondent has taken a decision merely stating that as per 1998 rules and reply has been examined. Thus, it is not a speaking order. In other words each of the contention raised by the petitioner in her reply has not been considered. In view of these facts and

reply to the show cause notice submitted by the petitioner. Hence, Annexure P-12 dated 9.5.2013 is liable to be set aside and it is set aside reserving liberty to the second respondent to pass a speaking order while explaining which portion of 1998 Rules are not fulfilled by the petitioner and each contentions raised by the petitioner in her reply. The above exercise shall be completed by the second respondent within a period of three months from today. Till the final decision is taken in the matter, petitioner be continued in the post of Public Health Nursing.

7.) Petitions stand disposed of.

(P.B. BAJANTHRI)
JUDGE

February 14, 2017.
sandeep sethi

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.