

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

**CWP No. 11305 of 2014
Date of Decision: 24.07.2017**

Laxmi Devi

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. D.S. Patwalia, Senior Advocate, with
Ms. Gurjot Grewal, Advocate,
for the petitioner.

Mr. R.K. Doon, A.A.G., Haryana.

Mr. Amrit Paul, Advocate,
for respondent no. 3.

Mr. Ramesh Hooda, Advocate,
for respondents no. 2 and 5.

AMOL RATTAN SINGH, J. (ORAL)

By this petition, the petitioner seeks quashing of the letter dated 19.03.2014, Annexure P-11, by which the petitioners' request for appointment as a Staff Nurse in the respondent-University of Health Sciences/PGIMS, Rohtak, has been refused on the ground that she did not fulfil the requisite qualification.

Mr. Patwalia, learned Senior Counsel appearing for the petitioner, submits that the petitioner as a matter of fact had been working on contract basis with the said respondent University/Institute since 2004, till she was relieved from duty in 2012, i.e. she worked for a period of about 8 years, and the disqualification referred to in the impugned order, is that she did not possess a certificate showing

that she had passed the Midwifery course.

He further submits that whenever the petitioner asked to be sent for the Midwifery course during her tenure of 08 years as a Staff Nurse on contractual basis, in terms of the instructions dated 28.01.2008, Annexure P-13, her request was refused on the ground that the said instructions are only applicable to regular employees and not contractual employees.

Thus, his contention is that she could not acquire the said qualification, not having been sent for the course while she was on contractual appointment, and she was refused contractual appointment because she had not qualified the said course, it therefore being a 'Catch 22' situation.

She is stated to have, however, acquired the qualification in the year 2013.

The respondent-institute is also stated to have advertised 161 posts of Staff Nurses, vide an advertisement issued in the year 2014, an extract of which is annexed as Annexure P-9 with the present petition, by which time though the petitioner had acquired the qualification of being a Midwife, she was not considered for appointment to the said post as the age limit was between 18-40 years, the petitioners' year of birth being 1959 and she therefore being about 55 years old at that time.

In view of the aforesaid situation, the petitioner being well over the age of recruitment, obviously no direction can be issued to consider her eligible for appointment on a regular basis.

As regards the contention that she could not go for the course during the period that she was engaged on contractual basis, the nature of the appointment itself being contractual, non-deputing of anybody to attend a course during the period of contractual appointment again cannot be faulted.

This petition is therefore dismissed but with a direction that since the petitioner worked for 08 years in the respondent-University and has now acquired the basic qualification, if Staff Nurses are to be appointed on contractual basis, at any time in the near future, the petitioner may be given preference, if not otherwise disqualified for any other reasons.

July 24, 2017
nitin

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes