

Sr. No.209

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP No.17685 of 2013 (O&M)
Date of Decision:24.11.2017

Gurjeet Kaur

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. G.S.Brar, Advocate,
for the petitioner.

Mr. Avinit Avasthi, AAG, Punjab.

TEJINDER SINGH DHINDSA, J.(ORAL)

Petitioner is aggrieved of the action of the respondent Health and Family Welfare Department, State of Punjab in having denied to her appointment to the post of Staff Nurse against the General Category.

Brief facts are that the Directorate of Health and Family Welfare, Punjab issued public notice dated 26.07.2011 (Annexure P-1) inviting applications from eligible candidates for filling up various posts including 602 posts of Staff Nurses. In the bifurcation provided, 301 posts were to be filled up from amongst the General Category. The basic and essential qualifications to be eligible for the post of Staff Nurse were indicated in the advertisement itself. The selection criteria adopted by the respondent State was to the following effect:

Written Test	80 marks
Rural Background	05 marks
Higher qualifications (B.Sc/M.Sc)	05 marks
Experience Government/MRHM	10 marks (02 marks per year)

It is the case of the petitioner that she possessed the essential qualifications for the post in question and had submitted her online application within stipulated time frame and in the General Category. Counsel submits that as per provisional merit list put in public domain petitioner had secured 60.20 marks. It is argued that candidates belonging to the General Category and who had secured a lower merit position have secured appointments whereas the petitioner has been denied appointment to the post. Such action is arbitrary and violative of Articles 14 and 16 of the Constitution of India.

State action is sought to be justified on the ground that merit position earlier in point of time reflecting the petitioner to have secured 60.20 marks was as per declaration of the petitioner in the online application form and by giving benefit of 05 marks for possessing the higher qualifications i.e. B.Sc. It is submitted that it was during the process of counseling that it came to notice that the petitioner did not possess such qualification at the relevant point of time i.e. last date for submission of application form. Accordingly, the merit position has been revised and the petitioner has now been assigned 55.20 marks and thereby the petitioner does not fall within the zone of appointment.

Counsel for the parties have been heard.

The issue as regards eligibility of a candidate to be considered for a post against the backdrop of a cut off date for eligibility having been prescribed either in the Rules or in the advertisement is no longer res integra.

Supreme Court of India in ***Bhupinder Singh Vs. State of***

Punjab 2000 (2) SCT 826 had authoritatively laid down that the cut off date

by reference to which the eligibility requirement must be satisfied by the candidate seeking public employment is the date appointed by the relevant service Rules and if there be no cut off date appointed by the Rules then such date as may be appointed for the purpose in the advertisement calling for applications and if there be no such date appointed then the eligibility criteria shall be applied by reference to the last date appointed by which the applications have to be received by the competent authority.

Adverting back to the facts of the present case, the last date for submission of online application forms as per advertisement dated 26.07.2011 (Annexure P-1) was 20.08.2011 up to 5:00 p.m.

It is the pleaded case of the petitioner herself that she had appeared in the post Basic B.Sc Nursing II year examination conducted by the Pandit Bhagwat Dayal Sharma, University of Health Sciences, Rohtak in the month of July, 2011 and the result of which was declared in November, 2011.

It clearly emerges that on the last date of submission of application forms stipulated in the advertisement i.e. 20.08.2011, petitioner did not possess the higher qualification of B.Sc. so as to be accorded weightage of 05 marks towards higher qualifications.

Under such circumstances, no infirmity is found in State action in having revised the merit position of the petitioner and by assigning to her 55.20 marks after deducting the 05 marks that had earlier been granted as per information supplied by the petitioner in the application form.

Even otherwise it is not the case of the petitioner that any candidate under the General Category and who has secured less than 55.20 marks, has been issued an appointment letter.

For the reasons recorded above, there is no merit in the writ petition and the same is dismissed.

24.11.2017

vandana

(TEJINDER SINGH DHINDSA)
JUDGE

Whether speaking/reasoned

Yes

Whether Reportable

No