

*CWP No.2315 of 2013 &
CWP No.2381 of 2013*

-1-

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
(1.)

CWP No.2315 of 2013
Date of Decision:-14.02.2017.

Kuljeet Kaur

.....Petitioner

Versus

State of Haryana and others

.....Respondents

(2.)

CWP No.2381 of 2013

Sudesh 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 in
CWP No.2315 of 2013.

Mr. Devender Punia, Advocate for the petitioner in
CWP No.2381 of 2013.

Mr. Harish Rathee, Sr. DAG, Haryana.

P.B. BAJANTHRI, J. (Oral)

1.) By this order CWP Nos.2315 and 2381 of 2013 shall be disposed of as the point in issue involved in both the writ petitions is similar. For brevity, facts are being extracted from CWP No.2315 of 2013.

2.) In the instant petition, petitioner has sought for quashing of order dated 29.1.2013 (Annexure P-11) 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 5.2.2010 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 possess certain qualification prescribed for the post. Thus, a show cause notice was issued to the petitioner on 10.1.2011. The second respondent on the score that the petitioner has not submitted her reply to the show cause notice proceeded to pass order of reversion on 29.1.2013. On the other hand, learned counsel for the petitioner pointed out that the petitioner has submitted her reply which is evident from Annexure P-13 and P-14 information furnished under RTI read with the reply to the show cause notice. The same is not disputed by the respondents. Therefore, in not considering the reply to the show cause notice, the impugned order of reversion dated 29.1.2013 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 29.1.2013.

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 29.1.2013 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 as if the petitioner has not submitted her reply to the show cause notice. On the contrary, it is evident on record that the petitioner had submitted her reply to the show cause notice which is supported by RTI information furnished by State Public Information Officer vide Annexure P-13. In view of these facts and circumstances, it is a fact that the second respondent has not considered the reply to the show cause notice submitted by the petitioner. Hence, Annexure P-11 dated 29.1.2013 is liable to be set aside and it is set aside reserving liberty to the second respondent to proceed further by issuing a fresh show cause notice and obtain a reply from the petitioner and proceed in accordance with law. 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.