

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

CWP No. 20350 of 2017
Date of decision: 26.09.2017

Sunita Devi

....Petitioner(s)

Versus

State of Haryana and another

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. R.S. Kundu, Advocate,
for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

The petitioner challenges the notice dated 22.12.2016 (Annexure P-4) whereby, the criteria was fixed for the examination which was to be held for the post of Staff Nurses. Resultantly, challenge has also been raised to the result which has now been declared and where the successful candidates were called for interview in the month of August-September, 2017.

Counsel has been at pains to show that the criteria which was fixed was that there was to be (i) 75% weightage for General Awareness, Reasoning, Maths, Science, English, Hindi and concerned or relevant subject as applicable and (ii) 25% weightage for History-Current Affairs, Literature, Geography, Civics, Environment, Culture etc. of Haryana to point out that there were 82 multiple choice questions and these were to be divided in 75% and 25% for different topics. Reference is made to the question paper appended to show that it is not in consonance with the criteria. Resultantly, it is submitted that the result is liable to be set aside.

After hearing counsel for the petitioner, this Court is of the opinion that the said argument is without any basis. The advertisement no. 1 of 2015 was issued on 19.06.2015 (Annexure P-1). The petitioner was an applicant and accordingly was well aware of the criteria which was circulated on 22.12.2016. The examination was held on 15.01.2017. The petitioner gave the said examination and waited for the result which was declared on 11.08.2017. If she was aggrieved that the criteria was not in consonance with the one which had been notified by the Commission, she should have raised the dispute there and then after giving the examination in January, 2017. She opted to take a chance and having not been in the list of successful candidates as per the notice dated 11.08.2017 has now chosen to turn around and challenge the said action.

The principle of estoppel would, thus, apply squarely to the petitioner. Having taken a chance she cannot now turn around and question the process as such by saying that it was not as per the notified criteria. Reliance can be placed upon the principle which has been laid down by the Apex Court in this regard in ***Madan Lal and others vs. State of Jammu and Kashmir, 1995 (3) SCC 486*** which has been consistently followed and the latest judgment on this issue is ***Civil Appeal Nos. 8345-46 of 2009, D. SarojKumari vs. R. Helen Thilakom and others*** decided on 13.09.2017. In the said case also, the unsuccessful candidate had raised a dispute that the post could not be filled in by direct recruitment and should be only considered as a promotional post after applying for the post and having taken part in the selection process. The Apex Court resultantly applied the said principle that the same could not be done. Similar is the position herein.

Resultantly, this Court is the opinion that at this belated stage, the petitioner is not entitled to challenge the setting up of the question papers alleged to be against the criteria notified and thus turn around and challenge the result thereafter.

Accordingly, the present writ petition is dismissed in limine.

26.09.2017
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No