

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

**CWP No.1084 of 2018**

**Date of Decision : 19.01.2018**

Medical Superintendent, ESIC  
Model Hospital, Bharat Nagar,  
Ludhiana

....Petitioner

Versus

Smt.Bimla and others

....Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER  
HON'BLE MR.JUSTICE RAJBIR SEHRAWAT

Present: Mr.Anil Shukla, Advocate  
for the petitioner.

**MAHESH GROVER, J.** (Oral)

This writ petition has been filed by the ESIC questioning the order of the Central Administrative Tribunal dated 27.02.2017. Respondent No.1-Smt. Bimla, who is working as a Staff Nurse, was given an option in 2007 to join ESIC cadre. The said respondent did so and concededly she was senior in the ESIC cadre at the time of her induction in 2007 and also eligible for promotion as a Staff Nurse having the requisite experience prescribed under the rules. She then claimed that she ought to have been promoted in the year 2007 itself instead of 2010 and finding no redressal of her grievance she filed OA before the Tribunal which was disposed of with a direction to the official respondents to consider and decide the legal notice submitted by her, resulting in an order which was again challenged by her which matured into the impugned order.

The learned Tribunal accepted her plea qua the antedated

promotion but negated her claim to salary and other allowances.

Questioning the said order learned counsel for the petitioner contends that antedated promotion could not have been given to respondent No.1 as there were peculiar circumstances prevailing which prevented them from holding the DPC to evaluate the cases of persons with likelihood of being promoted. The reason is contained in the “specking order” passed by the petitioners on the claim set up by respondent No.1 in her legal notice and a perusal thereof reveals that it is completely unsustainable and arbitrary. We may extract the relevant reasons for keeping the promotion of respondent No.1 at a bay :-

“This hospital was under control of the Punjab Government and ESIC had taken over the hospital in 2002. However, it was manned by the employees of Punjab government till Feb.2010. AS ESIC was not having adequate number of staff to run the hospital, option were called for from the willing employees for posting in the ESIC hospital Ludhiana in 2005. Mrs. Bimla gave option and joined ESIC Model Hospital Ludhiana in 2007. On her joining in the ESIC Hospital Ludhiana she was senior in ESIC cadre. But at that time, due to peculiar circumstances, that the Punjab Govt. staff who were already working in the ESIC Hospital much prior to the joining of Smt.Bimla and Smt. Bimla being junior to them she could not have been placed above those persons, so

no promotion could be effected due to this peculiar situation.”

Concededly, respondent No.1 was senior in the cadre of ESIC and merely because some staff members from the Punjab Govt. were occupying the posts in ESIC waiting reversion to their own cadres would be no ground to deny the respondent No.1 her legitimate right. The reason for not holding the DPC is thus totally arbitrary. We also find that respondent No.1 has not been given any monetary consequences. Therefore, merely because she has been assigned a date of promotion from a prior date would hardly be any justification for the Corporation to even come up before us in writ proceedings to question the order.

No ground to interfere.

Dismissed.

(MAHESH GROVER)  
JUDGE

19.01.2018  
dss

(RAJBIR SEHRAWAT)  
JUDGE

|                           |        |
|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether reportable        | Yes/No |