

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CWP No. 23652 of 2013

Date of decision : July 11, 2018

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Saroj Bala and another

.....Petitioners

Versus

State of Haryana and others

.....Respondents

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BEFORE: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. Sanjay Mittal, Advocate for the petitioners.

Mr. Hitesh Pandit, Additional Advocate General,
Haryana

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RITU BAHRI, J.

Petitioners are seeking writ of certiorari for quashing the order dated 3.10.2013 passed by respondent no.1 (Annexure P-6) vide which the persons junior to the petitioners have been promoted to the post of Multipurpose Health Supervisors (Female).

Petitioner no.1 Saroj bala was appointed as Multipurpose Health Worker (Female) on 14.8.1992 and posted at PHC-Ujhana, Jind. Petitioner no.2 Kamlesh Kumari was appointed on 9.9.1992. As per the counsel for the petitioners, petitioner no.1 is posted at Village Azad Nagar under Community Health Centre, Jamalpur, District Jhajjar and petitioner no.2 is posted at Sub Centre, Kosli-1, Nahar, District Rewari, presently. As

per seniority/gradation list (Annexure P-1) issued by the Director General of Health Services, Haryana, petitioner no.1 was at Sr. No.2380 and petitioner no.2 at Sr. No. 2337. On 24.5.2013, a tentative seniority list was issued by respondent no.1 and in the above tentative seniority list, persons junior to the petitioners had been promoted. The petitioner no.1 gave an application dated 29.5.2013 (Annexure P-2) and petitioner no.2 also gave an application (Annexure P-3) to respondent no.1 stating therein that the name of persons junior to them have been shown in the tentative seniority list and requested that they should have been promoted on the post of Multipurpose Health Supervisors (Female). Recommendation (Annexure P-4) was sent by the Sr. Medical Officer, Community Health Centre, Jamalpur recommending the case of the petitioner. Letter dated 29.5.2013 (Annexure P-5) was written by Senior Medical Officer, Nahar District Rewari to Civil Surgeon, Rewari that the persons junior to petitioner no.2 have been promoted and it was requested that as per seniority of Kamlesh Kumari, she should be promoted on the post of MPHS (Female). In spite of the above recommendations, respondent no.1 vide order dated 3.10.2013 (Annexure P-6) prepared the promotion list and the persons junior to the petitioners, whose serial numbers in gradation list were 2382, 2385, 2394, 2409, 2414 and 2422, were promoted on the post of Multipurpose Health Supervisors (Female).

Written statement has been filed by Dr. D.P Lochan, Director General Health services, Haryana on behalf of respondents no. 2 to 5. Stand taken in the preliminary objection is that the Multipurpose Health Worker (Female) are promoted on the basis of their seniority-cum-merit as provided in **Rule 12** of the Haryana Health Department Multi Purpose Health

Workers (Female) Group 'C' Service Rules, 1984, which is reproduced as under:

“12 Seniority inter se of members of the Service who are appointed after coming into force of these rules shall be determined by the length of continuous service on any post in the service.

Provided that where there are different cadres in the Service, the seniority shall be determined separately for each cadre.

Provided further that in the case of members appointed by direct recruitment, the order of merit determined by the Board, shall not be disturbed in fixing the seniority;

Provided further that in case of two or more members appointed on the same date, their seniority shall be determined as follows:-

(a) a member appointed by direct recruitment shall be senior to a member appointed by promotion or by transfer;

(b) a member appointed by promotion shall be senior to a member by transfer;

(c) in the case of members appointed by promotion or by transfer seniority shall be determined according to the seniority of

such members from which they were promoted or transferred; an

(d) in the case of members appointed by transfer from different cadres, their seniority shall be determined according to pay preference being given to a member who was drawing a higher rate of pay in his previous appointment; and if the rates of pay drawn are also the same, then by their length of service in those appointments and if the length of such service is also the same, the older member shall be senior to the younger member.”

Respondent no.1 promoted 99 Multi Purpose Health Workers (Female) in order of their seniority/recommendation made by Subordinate Services Selection Board, Haryana vide their recommendation list dated 13.12.1991 vide promotion order dated 3.10.2013. The petitioner no.1 is at serial no.197 and petitioner no.2 at serial no.195 of Subordinate Services Selection Board, Haryana recommendation list dated 13.12.1991. Respondents no. 6 to 11 were senior to the petitioners who were at serial nos. 14,30, 32, 15, 14 and 1 in the S.S.S Board recommendation list dated 13.12.1991. Accordingly, impugned order dated 3.10.2013 was issued in accordance with the recommendation list dated 13.12.1991 issued by Subordinate Services Selection Board, Haryana. It was further stated that in the schedule caste category, Santosh Kumari, MPHWS (Female) at sr. no.43 of Scheduled Caste category had been promoted as MPHS (Female).

No replication has been filed to this written statement till date. Hence as per Rule 12 of Haryana Health Department Multi Purpose Health Workers (Female) Group 'C' Service Rules, 1984, the Department has rightly promoted the private respondents no. 6 to 11 on the basis of merit determined by the Subordinate Services Selection Board, Haryana at the time of selection to the post of Multipurpose Health Worker (Female). It is further clarified in the reply that the promotion was not post on the basis of gradation list (Annexure P-1).

After hearing counsel for the parties and going through the evidence placed on the record, in my opinion, this petition deserves to be dismissed as the Department has rightly followed the recommendation list dated 13.12.1991 issued by Subordinate Services Selection Board, Haryana, whereby the private respondents were senior to the petitioners.

There is no merit in the petition filed by the petitioners, hence the same is hereby dismissed.

July 11, 2018
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(**RITU BAHRI**)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

No