

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

**Civil Writ Petition No. 25003 of 2017 (O&M)
Date of Decision: 06.03.2018**

Monika

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Ms. Sushma Chopra, Advocate
for the petitioner.

Mrs. Lavanya Paul, Assistant Advocate General, Punjab
for respondent Nos. 1 & 2/State and assisted by
Mr. Paramjit Singh, Senior Assistant,
Office of Health and Family Welfare, Punjab.

JASWANT SINGH, J.

1. Petitioner (Monika) has filed present petition seeking quashing of Order dated 21.04.2017 (**Annexure P-8**) by which order of appointment of the petitioner as Staff Nurse has been stayed. The petitioner has further prayed for direction to the respondents to allow her to join District Hospital, Jalandhar as was allotted her by Competent Authority.

2. The facts emerging from record of the case and arguments of both the counsels are that the respondent for filling 986 posts of Staff Nurse invited online applications. Total 986 posts included 489 post for General Category and remaining for different kind of reserved categories, which included 19 for SC (R&O). The petitioner being aspirant applied for the post of Staff Nurse under the category SC (R&O) as she belongs to *Adharmi* Caste, however, she by mistake while filing online application mentioned her category as SC-ESM (R&O). The petitioner appeared and qualified

written test which was held on 27.11.2016. The petitioner scored 376 marks out of 800 marks and accordingly the respondent called for scrutiny of documents. During the course of scrutiny of documents, the petitioner was pointed out her mistake of citing wrong category and the petitioner while filling Form at the time counseling corrected her category as SC (R&O). The final result was declared and her name existed at serial No. 306 of the Joint Merit List/General Category. The petitioner was adorned with Appointment Order dated 21.04.2017 (**Annexure P-7**) and she was granted her posting at District Hospital at Jalandhar. The respondent on the one hand issued Appointment Order dated 21.04.2017 (**P-7**) and on the other by even letter (**P-8**) stayed the appointment of the petitioner. The petitioner was again invited for counselling on 18.05.2017 which primarily involved verification of documents.

3. The respondent inspite of the fact that petitioner is entitled for posting even under General Category has not issued appointment letter till date which has forced the petitioner to approach this Court. The respondent has filed reply dated 16.02.2018 wherein it has been contended that the petitioner applied under wrong category, therefore, her appointment was rightly stayed and she has no right to claim post of Staff Nurse.

4. After hearing arguments of both the counsel and having scrutinized record of the case, this Court is of the considered opinion that this is a case of total non-application of mind and adamant attitude of the Respondent Authorities. It is a conceded position that the petitioner had secured a merit position, which entitles her to be appointed even under the General Category, as she falls within the zone of appointment against the

instructions/circular dated 11.09.2015, whereby it has been provided that a candidate belonging to a reserved category on the basis of his merit, if falls within the zone of appointment in the General Category, would be appointed in the General Category. That apart, the petitioner is also entitled to be considered eligible and suitable in the Category of Scheduled Caste (R&O), to which she actually belongs. The petitioner had, by mistake in her online application, applied under the Category of Ex-Servicemen Scheduled Caste (R&O), however, in view of her secured merit, was called for counselling, and at the time of scrutiny of documents, she had corrected her reserved category to Scheduled Caste (R&O). Accordingly, the appointment letter was issued belonging to the Category of Scheduled Caste (R&O). The reasons cited by the respondents for staying the appointment is entirely flimsy and needs to be outrightly rejected. The petitioner has been dragged into unnecessary litigation, when she is entitled for appointment and posting under both the categories, i.e., Reserved Category as well as General Category.

Accordingly, in view of above, the present writ petition is **allowed** and the impugned order dated 21.04.2017 (**P-8**) staying the appointment of the petitioner as 'Staff Nurse' is quashed.

The respondents are directed to ensure that the petitioner is issued posting orders and permitted to join pursuant to her appointment letter dated 21.04.2017 (**P-7**) within three weeks from the date of receipt of certified copy of this order. The petitioner is also entitled to all consequential benefits of arrears of salary, pay fixation, seniority etc. with effect from the date her immediate junior in merit was appointed. The

paid by the Director, Health Service (Family Welfare), Punjab, who passed the order dated 21.04.2017 **(P-8)**. It is clarified that the arrears of salary and costs shall be paid within two months from the date of receipt of certified copy of this order, failing which the petitioner shall be entitled to another sum/costs of ₹ 1,00,000/- (One Lakh only) to be paid by the respondents and recoverable from the delinquent official concerned, apart from being liable to be hauled up in contempt proceedings.

March 06, 2018

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(JASWANT SINGH)
JUDGE

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>