

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

CWP No. 8482 of 2018 (O&M)

Date of Decision: 26.04.2018

Rani Devi

...Petitioner

Vs.

Zila Sainik Board and others

...Respondents

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Ms. Sudeepti Sharma, Advocate for the petitioner.

Mr. Harish Rathee, Senior DAG, Haryana.

RAJIV NARAIN RAINA, J. (Oral)

CM No. 5804 of 2018

CM is allowed as prayed for.

Documents are taken on record.

CWP No. 8482 of 2018

1. The dispute in the petition is to the date of birth of the petitioner. She has been selected by the Haryana Staff Selection Commission for appointment as Nurse. Her appointment is in peril on a dispute of her date of birth. She has approached this Court for judicial redress seeking quashing of the impugned certificate issued by the District Sainik Welfare Board. The petitioner's selection is not in dispute nor under challenge in a court of law.

2. Written statement of Col. V.M. Sharma (Retd.) Welfare Officer, District Sainik and Ardh Sainik Welfare Department, Kaithal on behalf of respondent No.1 filed in Court is taken on record.

3. The Zila Sainik Welfare Board is in denial mode even after the Sainik Board has issued eligibility certificate (Annex. P-3) on 03.06.2015 to the petitioner as dependent of ex-serviceman and has renewed the life of the certificate on 09.06.2016 valid up to 03.06.2017 vide endorsement on the eligibility certificate recorded on 14.06.2016 in which the date of birth of the petitioner is recorded as 25.04.1987.

4. The Zila Sainik Board started a fishing enquiry from the Army and are disputing the date of birth, insisting that it was 09.01.1986 as per Army record. To start with, the eligibility certificate issued by the authority after perusal of record is not normally open to be reviewed by a successor-in-interest. It is not the case that there is no evidence to support the date of birth as 25.04.1987 as asserted by the petitioner. There is sufficient material placed on record including Annex. P-5 to P-9 which are copies of the petitioner's Middle examination certificate, Matriculation certificate, PAN card, Conductor's licence and the Aadhar Card in the name of the petitioner with the date of birth and all these documents confirm the date of birth as 25.04.1987. Middle and Matriculation examination is qualified from the Board of School Education, Haryana. The petitioner read at the Government High School Deeg (Kaithal) and the Middle examination was passed from the same Board. These documents prima facie are in favour of the petitioner.

5. It is not disputed by the respondent-State that the petitioner

is a dependant of an ex-serviceman. Once there is no dispute on the reservation on which the appointment is claimed, then the civil record of the petitioner indicating date of birth as 25.04.1987 would become pre-dominant evidence of the date of birth in comparison to the evidentiary value of date of birth recorded by the Army authorities as 09.01.1986. The date of birth shown in the Army record has not been shown to be based on any primary evidence which leaves no manner of doubt as to the date of birth as claimed by the petitioner. The petitioner cannot be deprived of an appointment only by obfuscating her date of birth.

6. In the light of the above, the Zila Sainik Board will issue a fresh certificate recording her date of birth as 25.04.1987 and on the basis of that certificate the petitioner be offered appointment as per merit determined by the Commission in her category. The fresh certificate will be supplied within a week in consonance with the eligibility criteria Annex. P-3 by placing trust on documents referred to above and especially the educational certificates and other documents placed on record.

7. The petition stands accepted and is disposed of with the above directions.

(RAJIV NARAIN RAINA)
JUDGE

26.04.2018

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Whether speaking/reasoned : *Yes*
Whether reportable : *No*