

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.2620 of 2019
Date of Decision: September 06, 2019.

Vajinta

.....Petitioner

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL.

Present: Mr.S.S.Sahu, Advocate, for the petitioner.

Mr.Kiran Pal Singh, AAG, Haryana.

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Amit Rawal, J. (Oral)

The grievance of the petitioner in the instant writ petition is for setting-aside of the impugned order dated 13.11.2018 (Annexure P-5), whereby her appointment to the post of Staff Nurse at Sr.No.45 and Roll No.15102440, has been cancelled.

The facts emanating from the pleadings are that in pursuance to advertisement No.01/2015 (Annexure P-1), Haryana Staff Selection Commission invited applications for filling up various posts including Category No.1 (912 posts of Staff Nurse), to which the petitioner had applied against a Scheduled Caste category (SC). The qualifications for the post of Staff Nurse are as under:-

- “(i) B.Sc. (Hons.) Nursing or B.Sc. (Post Basic) Nursing or Diploma in General Nursing with Midwife Training from a recognized Institute/University;
- (ii) A division Nurse (with midwife training) registered with Haryana Nurse Registration Council;
- (iii) Hindi/Sanskrit upto Matric Standard or higher education.”

The petitioner being an aspirant submitted the application and applied for a post, i.e, SC category. On account of written test and scrutiny of the paper, the petitioner was declared to be selected on the basis of result (Annexure P-4). But to the utter surprise of the petitioner, she was found to be eligible against ESM SC category post against which the petitioner, had, never applied. On enquiry, the petitioner came to know about the impugned letter.

Mr.S.S.Sahu, learned counsel for the petitioner states that in the application form, the petitioner has also mentioned her telephone number as well as e-mail ID. But the respondents sent the impugned letter by Speed Post which was returned back with a report that the recipient/ addressee is not the resident of village Dhigawa. It is contended that the petitioner, as per the address given in the memo of parties, is resident of Village Dhigawa Jatan, Tehsil Loharu, District Bhiwani but presently residing at village Pahari, Tehsil Loharu. The attention of this Court is drawn to the interim order dated 06.02.2019 whereby one post was ordered to be kept reserved. Same reads as under:-

“Learned counsel for the respondent-State seeks time to file reply as as to explain how appointment letter of the petitioner was cancelled without informing her.

List on 14.03.2019.

One post be kept reserved in the meanwhile.”

On the other hand, para No.13 of the written statement filed on behalf of respondent Nos.1 & 2 shows that 12 posts remained vacant but validity of the list has already been exhausted on 31.01.2019. Para 13 of the written statement reads as under:-

“13. That in this regard, it is respectfully submitted that the order dated 06.02.2019 was received in the office of answering

respondent on 28.02.2019 through the office of Advocate General Haryana and the validity of the waiting list was upto 31.01.2019 as per notification. Due to this fact, the one post as ordered by this Hon'ble Court could not be notified as reserved. However, 12 posts remained vacant but the validity of the list has already been exhausted on 31.01.2019.”

Per contra, learned Assistant Advocate General, Haryana, supported the impugned order by submitting that the impugned order has not only been issued to the petitioner by also to other 45 (forty five) candidates who did not report for duty. The impugned decision is thus taken by inhabitant.

I have heard learned counsel for the parties and perused the paper book.

It is a fit case where the present petition deserves to be allowed. On going through the application form, it is found that despite the petitioner has given his mobile number 9466914468 and e-mail ID-ajaymechu7@gmail.com, the respondents have chosen to send the letter through speed post. No doubt, Annexure R-4 reflects the address of the petitioner as Village Dhigawa Jatan but written statement is silent as to whether any steps were taken to communicate the petitioner at her e-mail address being a recognized mode of communication. Even in para No.13 of the written statement, the respondents admitted vacancy of 12 (twelve) posts and it is stated that the validity of the list has already been exhausted on 31.01.2019.

This Court cannot remain oblivious of the fact that the writ petition was filed in January, 2019 and notice of motion was also issued on 31.01.2019 and adjourned the case for 06.02.2019. However, on the

adjourned date, i.e, 06.02.2019, one post was ordered to be kept reserved. In

the absence of any effective steps with regard to communication to the petitioner, her appointment cannot be cancelled especially when the petitioner never opted for ESM SC Category. There is no explanation as to why the petitioner was shown in the ESM SC Category when there are only three candidates against that category. It is the fault of the Selection Committee.

In view of the above, the writ petition is allowed; the impugned order dated 13.11.2018 (Annexure P-5) is set-aside and it is directed that the necessary consequential action be taken expeditiously and preferably within a period of two months from the date of receipt of a copy of this order. Petitioner is at liberty to seek implementation of this order under Article 215 of the Constitution of India.

September 06, 2019
mohinder

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No