

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP NO. 32737 of 2019(O&M)
DATE OF DECISION : 28.11.2019

Kanta Devi

... Petitioner

versus

The State of Punjab & Ors.

... Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Dhruv Gupta, Advocate,
for the petitioner.

ARUN MONGA, J. (ORAL)

1. Quashing of order dated 24.09.2019(Annexure P-6) by way of writ in the nature of *certiorari* has been sought herein, whereby claim of the petitioner for appointment on the post of Clerk or any other post, as per eligibility has been declined.

2. Succinct factual narrative first. Petitioner was appointed in the Department of Health and Family Welfare, Government of Punjab on 23.03.2001 as a “Daayi” (Trained Nursing Sister) on regular basis and has been working as such. While in service, petitioner later on acquired higher education viz. Senior Secondary in the year 2006 followed by a Course/ Diploma as a Sanitary Inspector with due approval of the Department. The petitioner strongly relies on memo dated 15.11.2011(Annexure P-3) whereby the Director, Health and Family Welfare asked for description of the qualifications of the trained “Daayis” working in State of Punjab including the offices of all the Civil Surgeons.

3. It would be apposite to reproduce said memo as below:-

“You are hereby intimated with regard to this subject that as per the decisions taken by the Ld. Chief Secretary, Health on 08.08.2011, the detail wise description of the qualifications of the trained daayis working under you, who are qualified as Clerk or to some other eligible post, was written to be sent to this office. However, no information has been received by this office from your side.”

4. Relying on the above, petitioner represented to the Department that she is entitled for higher post viz. either a Clerk or any other post equivalent thereof. Having got no response on her representation, she earlier instituted a writ petition bearing CWP No. 20515 of 2019, which was disposed of vide order dated 05.08.2019 directing the respondents to objectively consider her representations and pass a speaking order in accordance with law. Pursuant thereto, vide impugned order dated 24.09.2019(Annexure P-6), her claim has been rejected.

5. Having heard learned counsel for the petitioner, I am unable to persuade myself with vapid argument that vide memo dated 15.11.2011 (Annexure P-3) competent authority had issued any instructions that Trained “Daayis” be appointed as Clerk or on some other post.

6. A perusal of said memo Annexure P-3 would reveal that competent authority had merely sought details of eligibility of those Trained “Daayis” who would have become eligible to be appointed as Clerk or on some other post. The said information was seemingly to collate the data of eligible trained “Daayis” to create a talent bank for future reference. In the said memo no order whatsoever has been passed with regard to giving any promotion.

7. In the premise, I am of the opinion that petitioner seems to have been misled with the exercise carried out by the competent authority to seek

information with regard to the qualifications of the Trained “Daayis” so as to mean as if there is immediate promotion on the anvil.

8. Notwithstanding, petitioner submitted an application dated 25.05.2019 seeking promotion on the basis of said memo. Petitioner's application seeking promotion has been rightly declined by giving justifiable reasons, as below:-

“4. That for the purpose of appropriate proceedings, the copy of the application dated 20.05.2019 of the petitioner and letter no. 1613 dated 22.10.2013 Civil Surgeon, Amritsar was sent to the Staff-7 Branch of the office on 02.08.2019, as all the work of the Sanitary Inspector whose official name now is Multipurpose Health Supervisor(Male) is being done by Staff-7, Branch. The Staff-7, Branch has also been informed vide letter No. 2583 dated 26.08.2019 that the post promotion of post of Multipurpose Health Supervisor(Male) shall be done as per the provision of service rules of the year 2016 on the basis of 100% promotion, from the Multipurpose Health Supervisor (Male) employees who have completed five years of service on the basis of merit-cum-seniority. There is no provision for promotion from trained daayi to Multipurpose Health Supervisor(Male) . Apart from this, as per the service rules notified by the Department in 2007 also, there was a provision that the upgradation of the post of Multipurpose Health Supervisor(Male) shall be done on the basis of 100% promotion, from the Multipurpose Health Supervisor(Male) employees who have completed five years of service on the basis of merit-cum-seniority. From these also, there is no provision for promotion from trained daayi to Multipurpose Health Supervisor(Male) .

It is clarified from the facts mentioned in serial No.1-4 that in the permission which was granted to the Petitioner to do the course of Sanitary Inspector, it was a clear condition that the employee after getting the said eligibility

shall not demand for any above-mentioned special promotion. There is no provision given in the year 2007 and 2016 service rules of Multipurpose Health Supervisor(Male) of promoting trained daayi. Apart from this, there was no such assurance given to the petitioner from the Department/ Government that she shall be promoted as Sanitary Inspector.”

9. In the aforesaid premise, writ petition is dismissed. However, it is made clear that dismissal of the writ petition shall not bar the petitioner from being considered for promotion in accordance with law, when her turn is due as per her seniority to the next available promotional post.

(ARUN MONGA)
JUDGE

November 28, 2019
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| 1. | Whether speaking/ reasoned: | Yes/ No |
| 2. | Whether reportable: | Yes/ No |