

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

CWP-17333-2022 (O&M)

Date of decision: August 23, 2022

Manju

.....Petitioner

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Sandeep Kumar, Advocate for the applicant-petitioner.

Mr. Pankaj Middha, Additional AG Haryana.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of Certiorari for quashing impugned order communicated vide letter dated 03.06.2022 (Annexure P-14) whereby representation of the petitioner regarding considering her candidature for the post of “District Program Manager” was decided and same was declined stating there is no perversity or infirmity in the decision taken by the duly constituted selection committee, alleged by the petitioner to be in violation of the selection criteria dated 01.12.2020 (Annexure P-2).

2. Petitioner, an aspirant for the post of District Programme Manager, applied pursuant to advertisement dated 15.12.2020 (Annexure P-1) in General category and took written examination wherein she was declared successful and was invited for interview. However, her success story ended since she was not selected. Being disappointed with the result, she has assailed selection of private-respondent No.6, who has been selected.

Substantially, ground to challenge is that the selected candidate who is resident of City Panipat, as is borne out from the particulars provided by her, she has been rightly given 10 marks, but the petitioner belonging to the Rural area in the territory where the Primary Health Centre is located where the services are to be rendered, deserved and ought to have been given 20 marks. Instead she has been given equivalent marks to that of private-respondent No.6. Claiming that if the petitioner had she been given the deserved extra 10 marks, it is she who would have been selected for the post in question.

3. Stand of the official respondents is that the petitioner's contention of being entitled to 20 marks instead of 10 marks has been threadbare gone into, for which a special committee of five members was constituted and it was thereafter, that all the three candidates who opted for the solitary post in question were awarded equal marks i.e. 10. If the argument of the learned counsel for the petitioner is to be accepted that the petitioner being resident of rural area in the territory of Primary Health Centre, should have been local area weightage of additional 10 marks, the same would be against the intent and spirit of the Policy instructions (Annexure P-2). That apart even the nature and duties involved on the post in question, valid reasoning has been given in the impugned speaking order (Annexure P-14), which for ready reference is extracted herein below:-

“XXXXXX

At the outset, it is significant to note here that our Health Policy envisages a three tier structure comprising the Primary, Secondary and Tertiary Healthcare Facilities to bring healthcare services within the reach of the people. The Primary tier is designed to have three types of healthcare institutions, namely a Sub-Centre (SC) for population of 3,000-5,000, a Primary Health Centre (PHC) for 20,000-30,000 people and a Community Health Centre (CHC) as referral centre for every four PHC's covering a population of 80,000-1.2 lakh. The District Hospitals are to

function as the Secondary tier for the Rural Healthcare and as the Primary tier for the urban population. The Tertiary Healthcare is to be provided by healthcare institutions in urban areas which are well equipped with sophisticated diagnostic and investigative facilities.

National Health Mission which is a centrally sponsored scheme has been commenced to provide equitable, affordable and quality healthcare services to the public at large including rural population and also to strengthen and upgrade the existing health infrastructure across the State in all the districts which includes the additional engagement of adequate manpower (official and the staff members) at the Sub-centre level, PHC and CHC level and also in the district head offices in addition to the existing staff so that several Central and State health level schemes and programs could be implemented effectively and the consequent benefits of those schemes may reach to all the needed persons whether residing in urban or rural areas.

The District Health and Family Welfare Society, Panipat had advertised certain vacancies including one post of DPM under NHM purely on contractual basis. Since, there was an urgent requirement in the office of Civil Surgeon, Panipat to recruit a resource person who could co-ordinate and facilitate in the execution of several health schemes launched by the government therefore one post of District Program Manager was advertised. The District Program Manager is responsible for the overall planning, monitoring and implementation of schemes of National Health Mission. He or she is also accountable towards management of funds, compilation of reports and managing all the activities at district level.

Admittedly and undisputedly, as per the guidelines pertaining to local area weightage, which were to be followed during the recruitment of staff on contractual basis under National Health Mission in Civil Surgeon offices across the State, total 20 marks could be allocated under local area weightage category which further stipulates that, 20 marks has to be given to those candidates who are having their residence in PHC area and 15 marks to those whose residence is in CHC area and further 10 marks for those candidates who are the residents of the districts.

Considering the duties and responsibilities of District Program Manager and the fact that his services would be required exclusively at district level instead of any particular PHC or CHC area, the members of selection committee, while following the prevailing selection criteria had consciously decided to award marks by invoking third component of "Local Area Weightage" category i.e. if a candidate is resident of district Panipat, then by virtue of that 10 marks would be awarded. Consequently, all the three candidates, who had participated in the recruitment process for the post of DPM, were

awarded 10 marks since all of them were resident of district Panipat.

Pertinently, the basic objective and purpose behind fixing the aforesaid selection criteria is that during course of recruitment under National Health Mission in the entire State of Haryana, a uniform selection criteria shall be applied to rule out any sort of favoritism, nepotism and extraneous considerations. Therefore, if there is any vacant post, which especially exist in a particular area of any PHC or CHC in a district, then in that eventuality, preference has to be given to those candidates who are having their residence in that PHC or CHC area where the advertised post exists and accordingly as per the selection criteria, 20 and 15 marks has to be awarded respectively to such candidate.

However, in the instant matter it would be significant to note here that the post in question i.e. District Program Manager is a post which exists in the district head office in a particular district. Therefore, in such scenario, neither it would be appropriate nor prudent to award marks to a particular candidate by considering the fact that his or her residence falls under a PHC or CHC area. Rather, in such circumstances, under the category of "Local Area Weightage", the third sub-category i.e. if a candidate belongs to the district where the vacancy has been advertised then in that even 10 marks is required to be given to such candidate. Therefore, the decision of the selection committee awarding 10 marks to the candidates who had appeared in the recruitment process for the post of DPM in district Panipat is absolutely valid and justified, since all of them belong to district Panipat. The claim put-forth by the applicant that she ought to be given 20 marks is highly misconceived and erroneous.

In view of the aforesaid factual scenario, the representation moved by the applicant is hereby decided and accordingly her claim stands declined since there is no perversity or infirmity in the decision taken by the duly constituted selection committee."

4. Having given my thought to the reasons contained in the speaking order, I do not find any grounds to interfere as there is no irregularity either in law or even otherwise. It is not the case of the petitioner that she has been meted out with any hostile discrimination as all the candidates have been treated equally and if the benefit of 20 marks is to be accorded to the petitioner, so will be the case with other two candidates, resulting into no change in the merit position. Though writ petition is being

dismissed on merits, but in the parting, I may also like to point out that post in question is concededly a contractual one that too for a limited period of one year and a candidate cannot, as a matter of right, claim appointment on a contractual position as certain discretions have to be left open with the employer, based of-course, on objective criteria, in case employer is the State or its entity. As already discussed hereinabove, I see nothing wrong in the criteria adopted based on the expert opinion of committee of as many as 5 experts as spelled out in the speaking order.

5. Dismissed.

6. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

August 23, 2022
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No