

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(208)

CWP No. 6701 of 2017

Date of Decision : 16.11.2022

Shiv Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Rishav Sharma, Advocate for
Mr. D.R. Sharma, Advocate for the petitioner.

Mr. Rajesh Gaur, Additional Advocate General, Haryana.

Harsimran Singh Sethi J. (Oral)

An affidavit of Dr. Rahul Chawla, Joint Director, Medical Education & Research, Haryana has been filed on behalf of respondents No. 1 to 3. The same is taken on record.

In the present petition, the grievance of the petitioner is that he has not been evaluated properly for selection and consequent appointment to the post of Staff Nurse, as advertised by the respondents vide Annexure P-1.

The grievance of the petitioner is that the he applied in pursuance to the Advertisement No. 10 of 2016 for appointment to the post of Staff Nurse as advertised by the respondent-College. The petitioner competed for the said post and though, at one given point of time, he was given the marks for the experience which the petitioner had but the said benefit was withdrawn so as to decline the petitioner the selection and

consequent appointment. The prayer of the petitioner is that he has served as Emergency Medical Technician in the Civil Hospital, Fatehabad and is entitled for the grant of 6 marks to consider his claim for appointment to the post of Staff Nurse. The said marks were granted to him initially, though withdrawn later on.

After notice of motion, the respondents have filed the reply. In the reply, the respondents have mentioned that the petitioner did not had the experience of the post of Staff Nurse, for which he competed hence, the inadvertent mistake of granting the petitioner 6 marks for experience even for the service, which the petitioner has rendered as Emergency Medical Technician in the Civil Hospital, Fatehabad, was not in accordance with the criteria fixed for selection and said marks were rightly withdrawn hence, the petitioner's claim, as raised in the present petition, may kindly be rejected.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

The question in the present petition is whether, the petitioner is entitled for the grant of marks with respect to the experience he has while working as Emergency Medical Technician in Civil Hospital, Fatehabad or not, keeping in view the terms and conditions of the advertisement (Annexure P-1). It is a conceded position that while considering the claim of the eligible candidates, the respondents had formulated a criteria, a copy of which has been appended as Annexure P-2. As per criteria Annexure P-2, the marks to be given were bifurcated in various categories including the marks for experience. For experience, maximum of 10 marks could be given and the experience should be in the Medical College or the NCI permitted colleges as well as the Corporate and Multi-specialty hospitals of

more than 300 beds. The non-teaching experience in the hospital of the District/Civil or the General Hospital was also recognized. The relevant criteria framed for the grant of marks is as under :-

		Total Marks : 100	Proposed 100
1	Academic qualification	65 marks (65%)	73 marks (73%)
	(I) Basic qualification : Weightage of 50% marks may be given for screening/written test if any in the basic qualification including Professional qualifications marks. The distribution of marks will be as follows : A. Basic Qualification B. Screening/Written Test (II) Higher qualification : (over and above the requisite qualification in the relevant subject/specialties)	30 Marks (30%) 30 Marks (30%) 05 Marks	34 Marks (34%) 34 Marks (34%) 05 Marks Each higher qualification will be given 2 marks and total marks will not exceed 5.
2	Extra-curricular Activities : (Subject to Maximum of 05 Marks)	05 Marks (5%)	05 Marks (5%)
	I) Sports (Certificate issued by the Director, Sports of the State Stating Grade and period participation (Subject to maximum of 03 Marks) Grade A1 Grade A2 Grade B1 & B2 Grade C1 & C2 II) Sports (½ Marks for each donation subject to maximum of one marks)	03 Marks 03 Marks 02 Marks 01 Marks 0.5 Marks 1 Mark	03 Marks 03 Marks 02 Marks 01 Marks 0.5 Marks 1 Mark
3	Experience (Subject to Maximum of 10 Marks)	10 Marks (10%)	10 Marks (10%)
	Medical College (MCI recognized) Government Private	05 Marks/year 4.5 Marks/year	05 Marks/year 4.5 Marks/year
	MCI permitted Medical College/teaching Hospital other than Medical College with Territory care service	04 Marks/year	04 Marks/year

		<i>Total Marks : 100</i>	<i>Proposed 100</i>
	Corporate/Multi specialty hospital more than 300 bedded	03 Marks/year	04 Marks/year
	Non-teaching hospitals District/Civil/General Hospital	02 Marks/year	02 Marks/year
	CHC	01.5 Marks/year	01.5 Marks/year
	PHC	01 Marks/year	01 Marks/year
	Private Dispensary/Clinic/Nursing Home	05 Marks/year	05 Marks/year
	Note : ½ marks for each completed year of work experience on the said post for the candidates already working in this institution on contract basis may be given as a one-time measure in view of the instructions issued by the Chief Secretary, Haryana bearing No. 43/31/061GSI Dated 29.05.2007		Note : ½ marks for each completed year (on or before the last date of application) of work experience on the said post for the candidates already working in this institution on contract basis may be given as a one-time measure in view of the instructions issued by the Chief Secretary, Haryana bearing No. 43/31/061GSI Dated 29.05.2007

A bare perusal of the above would show that there is no mention that the experience required should be on the post of Staff Nurse only rather, the petitioner is claiming the benefit of experience under the heading “Non-Teaching hospitals District/Civil/General Hospital”.

It is a conceded position that the petitioner has worked as Emergency Medical Technician in the Civil Hospital, Fatehabad. The said experience is on a non-teaching post and the experience is in a Civil Hospital in a District. That being so, once the criteria does not mention that the experience should be of the post of Staff Nurse and only requirement is that the experience should be on a non-teaching post, the experience of the petitioner of the Emergency Medical Technician in a Civil Hospital will be covered under the said criteria as the same is on a post, which is non-

teaching and is on a post of a Civil Hospital and hence, the petitioner was rightly given 6 marks when initially evaluated by the respondents.

Further, the said contention of the petitioner is to be noticed keeping in view the fact that the total posts advertised have not been filled up and as per the affidavit filed by the respondents today in Court, 5 posts advertised in the General Category are still lying vacant to be filled up. That being so, the petitioner is fully eligible to be considered for appointment against those 5 available posts by extending him the marks for experience which he has gained for experience on the post of Emergency Medical Technician in Civil Hospital, Fatehabad for which, petitioner was initially given 6 marks.

The claim of the petitioner is accordingly allowed. The respondents are directed to extend 6 marks to the petitioner for the experience, which he has rendered on the post of Emergency Medical Technician in Civil Hospital, Fatehabad and thereafter evaluate his merit. In case, petitioner comes in a merit keeping in view the last candidate selected as Staff Nurse in the General Category, the petitioner be granted the selection as well as the consequent appointment against one of the 5 posts, which are lying vacant even as of now. Let the order be complied with within a period of two weeks of the receipt of copy of this order.

Petition is allowed in above terms.

November 16, 2022
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No