

**126+232 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

2023:PHHC:133004  
CM-17127-CWP-2023 in/and  
CWP-6393-2019 (O&M)  
Date of Decision: 12.10.2023

Sunanda Kapil and another ...Petitioners

Vs.

State of Punjab and others ... Respondents

**CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA**

Present Mr. Rajinder Sharma, Advocate for the petitioners.

Mr. R.K.Kapoor, Addl. AG, Punjab.

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**SANJEEV PRAKASH SHARMA, J.(Oral)**

**CM-17127-CWP-2023**

1. Application has been moved for placing on record.
2. For the reasons stated in the application, the same is allowed and documents are taken on record.

**CWP-6393-2019 (O&M)**

3. Learned counsel for the petitioners submits that the petitioners were working as Staff Nurse under NHRM and were held ineligible on account of age alone. Learned counsel submits that case of the petitioners is identical to the decision taken by this Court in the case of Harivansh Mehta vs. State of Punjab and others, CWP-9007-2017, decided on 01.09.2023 and in the case of Jagdish Rai and another vs. State of Punjab and others, CWP-130-2017, decided on 01.09.2023.
4. In Harivansh Mehta (supra), this Court has held as under:-

*“10. A close look of the conditions of appointment of the petitioner reflects that his appointment was made under the Medical Health Department. The conditions of appointment and appointment order has been issued by the representative of the State. Thus, it is the State who appointed the TBHVs under RNTCP or NHRM as the case may be.*

*11. Various schemes under the Medical Health Department are mentioned and placed on record with replication and on the website of the Department of Health And Family Welfare reflects that the RNTCP is one of the major Programs under the Health and Family Welfare Department. Therefore, employees working in the said field either through Society formed by the State Government or by any other authority on Contractual basis, would fall within the second proviso of Rule 5 and the Rules of 1994 and would be entitled to be granted benefit of age relaxation for employment upto 45 years of age and there cannot be any other interpretation to the said proviso as the amendment further clarifies that the employees who are working for the affairs of the Punjab Government in Departments, Boards etc. and other authorities, which would include Society, under which the petitioner also has been appointed.*

*12. This Court also finds that in the advertisement issued for filling up the posts of Medical Officer (MBBS) and Medical Officer (Specialist) placed on record as Annexure P-10, age relaxation has been granted to the candidates who are working under various projects/wings of Health & Family Welfare Department, Punjab i.e. NRHM, PHSC, subject to the condition that the candidate must not exceed maximum age limit of 45 years. Thus, two different yardsticks adopted by the respondents in respect of grant of age relaxation in recruitment of Medical Officers and its subordinate staff is held to be illegal and*

*unjustified. While the relaxation of age is granted to the Medical Officer but the same has been denied to the subordinate staff.*

*13. In view thereof, the Writ Petition is allowed and the petitioner would be granted age relaxation and if he is found suitable for appointment, he would be considered for appointment. Necessary exercise shall be conducted within two months henceforth.*

*14. If the appointments were given to the other persons, the petitioners would be treated to be considered appointed from that date as well, and will be given the seniority according to his placement in merit, however, the benefit of salary shall only be from the date of passing of this order. The earlier period shall be treated as notional.*

5. Keeping in view the fact that the controversy in the present case is also same as was involved in the cases (supra), the law laid down in Harivansh Mehta's case (supra) would apply *mutatis mutandis* to this case and accordingly the writ petition is also allowed in the aforesaid terms.

6. All pending misc. application(s) also stand disposed of.

**(SANJEEV PRAKASH SHARMA)**  
**JUDGE**

12.10.2023.

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|-------------------------------|---|--------|
| 1. Whether speaking/reasoned? | : | Yes/No |
| 2. Whether reportable?        | : | Yes/No |