

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

110

2023:PHHC:072318

**CWP-10598-2016 (O&M)
Date of decision: 18.05.2023**

BALWINDER KAUR

..Petitioner

Versus

STATE OF PUNJAB AND ORS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Karanjeet Singh Brar, Advocate
for the petitioner.

Mr. R.K. Kapoor, Addl. A.G. Punjab.

ANIL KSHETARPAL, J(Oral)

1. The petitioner prays for the issuance of an appropriate writ to direct the respondents to appoint her as a Staff Nurse for Special New Born Care Unit in Baba Farid University of Health Sciences, Faridkot.
2. As per the recruitment notice, the eligibility criteria and other necessary conditions reads as under:-

*“Eligibility and other conditions as per laid above
Eligibility & Qualification:*

- 1. Should have passed matriculation examination with Punjabi as one of the compulsory or elective subjects or any other equivalent examination in Punjabi language, which may be specified by the Government from time to time.*
- 2. Should have passed Senior Secondary Part II Examination or its equivalent from a recognized University or institute.*
- 3. Should possess a diploma in General Nursing and Midwifery from a recognized University or institution.*
- 4. Should also possess a Special Training Certificate in Neonatology or Fellowship and*
- 5. Should be registered with the Punjab Nursing Registration Council established under the Punjab Nurses Registration Act, 1932 (Punjab Act No. 1 of 1932) which may be amended from time to time.”*

3. The petitioner applied for the aforesaid post under the handicapped category. After clearing the written exam, she attended the

counselling session, however, at that stage, it was found that the petitioner does not possess a Special Training Certificate or Fellowship in Neonatology, hence, her candidature was rejected by the select committee, as a result thereof, the present writ petition has been filed.

4. The learned counsel representing the petitioner submits that the petitioner submitted an experience certificate from Satyam Hospital located in Ludhiana. He submits that the full form of acronym NICU used in the experience certificate is Neonatal Intensive Care Unit. The experience certificate reads as under:-

“This is to certify that Miss Balwinder Kaur Daughter of S. Malkeet Singh has worked in our Hospital since 30-09-2004 to 01-10-2005.

She is working in NICU of our Hospital. She has good knowledge of Operating Latest Medical and NICU Equipment & Software including High and Ventilator, Multi Well versed with assisting routing medical procedures and intervention like endotracheal incubating, central venous cath placement, percutaneous tracheotomy, intercostal tube drain insertion etc.

She is intelligent, Honest, Sincere and devoted nursing staff. I wish her the best in all her further Endeavour's and career pursuits.”

5. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

6. On the one hand, the learned counsel representing the petitioner contends that the petitioner has been wrongly discriminated as another candidate who submitted an experience certificate from a private hospital has been selected by the appointing authority.

7. On the other hand, the learned counsel representing the State of Punjab has submitted that the experience certificate produced by the petitioner was found to be inappropriate as per the requirement of the job.

While highlighting, the learned counsel representing the State of Punjab has drawn the attention of the Court to page No.59 of the paperbook to submit that the select committee consisted of Senior doctors working in the field of Neonatology.

8. It is apparent that the requirement pertained to a specialized and newly established unit for neonatal care. According to the eligibility criteria, candidates were mandated to possess a special training certificate in Neonatology or Fellowship related to the care of newborn infants. This position entails highly specialized skills. A committee consisting of seven senior doctors has concluded that the petitioner lacks the necessary experience. In the exercise of judicial review, this Court cannot assume the role of an appellate authority over the expert opinion, especially in the absence of any allegation of malfeasance. Furthermore, it is important to note that no candidate from the reserved category has been appointed.

9. Keeping in view the aforesaid facts and discussion, no ground to interfere is made out.

10. Dismissed.

11. All the pending miscellaneous applications, if any, are also disposed of.

May 18th, 2023

Ay

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*