

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

209

CWP-18481-2017
Decided on : 31.10.2023

Sonia

. . . Petitioner

Versus

Haryana Staff Selection Commission

. . . Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PRESENT: Mr. Naresh Kaushik and Mr. Pankaj Attri, Advocates
for the petitioner.

Mr. Pankaj Middha, Addl. AG, Haryana.

HARSIMRAN SINGH SETHI, J. (ORAL)

1. The present petition has been filed with a prayer that the petitioner be declared eligible for appointment to the post of staff nurse as advertised by advertisement No. 1 of 2015 dated 19.06.2015.
2. As per the averments made in the petition, the petitioner applied in pursuance to the advertisement (Annexure P-1) dated 19.06.2015 in the category of the EBPG. The last date of submitting the application form was 04.08.2015. As per the advertisement, for competing for the post of staff nurse, a candidate should be B.Sc (Hons.) Nursing or B.Sc (Post Basic) Nursing or Diploma in General Nursing with Midwife Training from a recognized institute/University. Apart from the above qualifications, the candidate was required to be registered with the Haryana Nurses Registration Council.

3. The petitioner applied in pursuance to the said advertisement as the petitioner was having required qualification and she had submitted her registration with the Haryana Nurses Registration Council dated 10.04.2015.

4. On 15.01.2017, the petitioner appeared in the written examination and qualified the same. In the meantime, the petitioner was also competing for the post of staff nurse which was advertised by the Indraprastha Medical Corporation Ltd. (Apollo Hospital), New Delhi. As the petitioner intended to join in pursuance to the said selection in New Delhi, the petitioner applied for grant of No Objection Certificate from the Haryana Nursing Registration Council and keeping in view the No Objection Certificate granted by Haryana Nurses Registration Council, the petitioner was registered at the Delhi Nursing Council on 27.03.2017. It may be noticed that immediately within a period of 20 days, the petitioner changed her mind and again got herself registered with the Haryana Nursing Registration Council on 11.04.2017.

5. After the petitioner was again registered with the Haryana Nurses Registration Council, she was called for the scrutiny of the documents and in the said scrutiny, the respondents raised objection that once the petitioner had got herself registered with Delhi Nursing Council in March 2017, the petitioner will lose her eligibility to compete for the post in question, even if, the petitioner again got herself registered with the Haryana Nursing Registration Council on 11.04.2017 as the said date will be taken as relevant date to consider the eligibility of the petitioner. As per respondents, earlier registration with the Haryana Nursing Registration Council will be treated as invalid keeping in view the fact that a fresh registration was done on 11.04.2017, which registration is after the last date of the submission of the application form in regards to

Advertisement No. 1 of 2015. The said action of the respondents is challenged in the present petition.

6. By an interim order, the petitioner was directed to be interviewed provisionally and her result was not to be declared. Keeping in view the interim order passed, the petitioner has already been interviewed. Today, in order to verify whether the claim of the petitioner has been rendered academic or survives, the tentative result of the petitioner was perused by the Court and it transpires that the present petition will survive to be decided on merit.

7. Learned counsel for the petitioner submits that once on the last date of the submission of the application form, the petitioner had a valid registration with the Haryana Nursing Registration Council, the same is to be treated as valid for all intent and purposes and the intervening factors of registration with the Delhi Nursing Council and re-registration with the Haryana Nursing Registration Council are to be ignored while considering the claim of the petitioner in pursuance to the advertisement (Annexure P-1) for the post of staff nurse.

8. Learned State counsel, on the other hand, argues that the earlier registration with the Haryana Nursing Registration Council which certificate was submitted by the petitioner alongwith the application will loose its sanctity and the fresh registration with the Haryana Nursing Council on 11.04.2017 is to be treated for considering the claim of the petitioner and as the said registration was after the last date of submission of the application form, the petitioner has rightly been treated as ineligible to compete for the post in question.

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

10. It is a conceded fact that on the date when the petitioner submitted the application form for the post of Staff Nurse, she fulfilled all the requisite qualification envisaged under the advertisement so as to be an eligible candidate to compete for the post of staff nurse. The candidates have to explore all the probabilities and possibilities of the selection wherever the posts have been advertised and keeping in view the said probability, as the petitioner was also competing for the same post in Delhi, the petitioner had sought 'No Objection Certificate' from Haryana Nursing Registration Council so as to get registered with the Delhi Nursing Council. The petitioner got herself registered with Delhi Nursing Council on 27.03.2017 but within a period of 20 days, she decided to compete for the post in question only, hence, again applied for registration with the Haryana State which benefit according to her was granted on 11.04.2017. The re-registration of the petitioner cannot be treated as a fresh registration so as to exclude her earlier registration with the Haryana Nursing Registration Council which was prior to the last date of application. The purpose of registration is only to ensure that selected candidate is able to work on the post in question as without registration with the State Nursing Council, no staff nurse can discharge the duties in any hospital. It is a conceded position that at the time of filling of the application form, the petitioner was fully eligible to discharge the duties on the post of staff nurse on the last date of the application form i.e. August 2015 and even on the date when the scrutiny of the documents was conducted, the petitioner was registered with the Haryana Nursing Registration Council. That being so, there was no impediment with the petitioner not to discharge the duties to the post of staff nurse in case she was selected.

11. The only argument being raised by learned State counsel is that the registration dated 11.04.2017 with Haryana Nursing Registration Council is a fresh registration. The said argument cannot be accepted. That the registration dated 11.04.2017 is only a registration to ensure that the candidate can work in the State of Haryana on the post of staff nurse, therefore, on the date of scrutiny, the petitioner was already very much eligible having due registration with the Haryana Nurses Registration Council.

12. Not only this, on the last date of submitting application also, the petitioner was very much eligible having a due certificate from Haryana Nursing Registration Council. Under these circumstances, declaring the petitioner ineligible to compete for the post in question is incorrect. The petitioner is held eligible qua competing for the post in question and the respondents are directed to consider the petitioner to be selected for the post in question.

13. As the petitioner has already appeared provisionally in interview under the orders of the Court, the result of the said competition be declared and in case, the petitioner has secured more marks than the last selected candidate in the category in which the petitioner is competing, she be also given appointment.

14. At this stage, learned counsel for the petitioner submits that the petitioner be given appointment from the date, the candidate junior to the petitioner has been given the appointment and the petitioner will not claim any arrears of salary but be given seniority and other benefits as extended to the candidate immediately lower in merit to the petitioner. That is a fair proposition. In case the petitioner is given appointment, same should be with all consequential benefits such as seniority etc. and benefits be extended within a period of 8 weeks of receipt of copy of this order, however, the petitioner will not be entitled for any

arrears for the post in question but will be entitled for other benefits such as seniority etc. from the date, the candidate lower in merit has been appointed. It is made clear that in case the petitioner is not given the appointment within the time frame granted, the petitioner will also be entitled for all the arrears.

- 15. The petition is disposed of with the aforesaid terms.
- 16. Any civil miscellaneous application pending, if any, also disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

31.10.2023

Mehak

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No