

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

227 (07 cases)

CWP-19509-2020 (O&M)
Date of Decision :29.11.2024

Indu Bala

...Petitioner

Versus

State of Punjab and others

...Respondents

CWP-18935-2020

Jasmal Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CWP-19529-2020

Major Sahib and others

...Petitioners

Versus

State of Punjab and others

...Respondents

CWP-20137-2020

Karamjit Kaur

...Petitioner

Versus

State of Punjab and others

...Respondents



CWP-861-2021

Harjeet Kaur and others ...Petitioners

Versus

State of Punjab and others ...Respondents

CWP-11000-2021

Manmeet ...Petitioner

Versus

State of Punjab and others ...Respondents

CWP-26919-2021

Rajni Bala ...Petitioner

Versus

State of Punjab and others ...Respondents

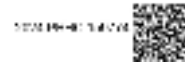
CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. H.C. Arora, Advocate with Ms. Sunaina, Advocate for the petitioner(s) in CWPs-19509,18935,20137 of 2020 & CWP-861-2021.

Mr. Sandeep Kumar, Advocate for the petitioner in CWP-19529-2020.

Mr. G.S. Sandhu, Advocate for the petitioner in CWP-26919-2021.

Ms. Gaganbir Kaur Kahlon, Advocate for Mr. Vipin Mahajan, Advocate for petitioner in CWP-11000-2021.



Ms. Shruti, AAG, Punjab.

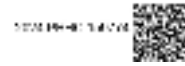
Mr. K.S. Dadwal, Advocate with
Ms. Neha Jain, Advocate, for respondent No.3.

* * *

Harsimran Singh Sethi, J. (Oral)

In the present bunch of petitions, the grievance being raised by the petitioner(s) is that they have not been given the benefit of marks for experience despite the fact that they were fully eligible keeping in view the similar clause interpreted by the Hon'ble Supreme Court of India wherein, anyone who has gained the qualification from Chandigarh is to be treated eligible to have obtained the same from the State of Punjab as Chandigarh is the Capital of Punjab.

As per the facts mentioned in the present petitions, the Department of Health and Family Welfare, Punjab issued an advertisement advertising various posts to be filled up in the Health and Family Welfare Department, Punjab under National Health Mission. As per the advertisement, the selection was to be made on the basis of written examination having 90 marks and 10 marks were fixed for experience i.e. 01 mark for each completed year subject to maximum of 10 marks but the same was only for the employees working in the various wings/entities of the Department of Health and Family Welfare, Punjab on contractual /outsourcing basis. The petitioners were working in the National Health Mission. U.T., Chandigarh and have experience of working on the post in question but they were not given benefit of marks for experience on the ground that they were not working with the National Health Mission with Government of Punjab, which is the requirement as per the advertisement.



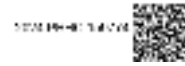
Learned counsel for the petitioners argues that keeping in view the settled principle of law once, the Chandigarh is the Capital of Punjab, any qualification or experience gained while working in Chandigarh, is to be treated as experience from the department situated within the state of Punjab. Reliance is being placed upon the judgment of the Hon'ble Supreme Court of India in *SLP (Civil) No.27365-2008, titled as, Raminder Singh Nagra vs. Jagjit Singh Puri and others, decided on 13.07.2009.*

Learned counsel for the petitioners further argues that keeping in view the said judgment, the petitioners are entitled for the grant of marks for experience while working in the National Health Mission in Chandigarh.

Upon notice of motion, the respondents have filed reply wherein, it has been stated that once, there is a specific condition in the advertisement that marks for experience will only be given to an employee who is working in the Department of Health and Family Welfare under the Government of Punjab, the petitioners cannot raise claim that they are eligible as per the said clause so as to get marks for experience so as to evaluate their claim for appointment on the post in question hence, the present petitions are liable to be dismissed.

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

The question which arises for determination in the present petitions is that whether the petitioners who are working in National Health Mission, which came under the Department of Health and Family Welfare, Chandigarh Administration, are entitled for the grant of benefit of marks for experience and will be covered under the relevant clause of the advertisement.



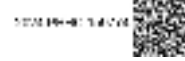
Before proceeding further, clause under which the marks for experience are to be given is being reproduced:-

2. Experience (1 year = 1 marks) 10 Marks
(Marks of Experience will be given to those candidates who are working in the Department of Health on Regular, Contract or Outsource basis in any programme.

Learned counsel for the petitioners argues that as the Chandigarh is also the part of Punjab being Capital hence, the employees working in the National Health Mission in a department under the Chandigarh Administration is to be treated as working in the State of Punjab hence, the petitioners are entitled for the grant of benefit of marks for experience while working in National Health Mission in the Department of Health and Family Welfare, Chandigarh. Reliance is being placed upon the judgment of the Hon'ble Supreme Court in the case of **Raminder Singh Nagra (supra).**

In the said case, the Hon'ble Supreme Court of India has held that Chandigarh being a Union Territory, which is also the Capital city of State of Punjab, is to be treated as part of the State of Punjab. Once, the said finding has been recorded by Hon'ble Supreme Court of India, any department of Union Territory of Chandigarh will also be treated as part of the Government of Punjab. Relevant paragraph of the judgment is as under:-

2. The petitioner's father was working in the Office of Accountant General, Punjab at Chandigarh and he also used to visit the State of Punjab for doing his official work. In view of clause 2(c), the petitioner has to be treated as a person entitled to a preferential consideration for the admission to the said course. The petitioner has also produced a copy of the certificate issued by the Central Board of Secondary Education, which shows that he has passed the examination from the Govt. Model Senior

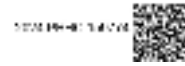


Secondary School, Sector 35-D, Chandigarh. Chandigarh being the Union Territory which is also the capital city of State of Punjab is to be treated as part of State of Punjab. Both the grounds given by the High Court to deny admission to petitioner are not correct and in view of the factual situation, the petitioner is entitled to be considered for one seat which was already kept vacant pursuant to the order passed by this Court. The petitioner may be permitted to join the course. The college/university would be at liberty to issue appropriate directions for regularization of the studies of the petitioner, as much time has elapsed after the commencement of the regular course.”

The said question again came up for consideration before the Division Bench of this Court in CWP-24747-2012, titled as, Harleen Cheema vs. State of Punjab and others, decided on 27.08.2013, wherein by placing reliance in the case of Raminder Singh Nagra (supra), the candidate, who has passed the qualifying examination from the Chandigarh, has been treated to have been passed the same from the State of Punjab.

Relevant paragraph of the said judgment is as under:-

8. In our view, the aforesaid issue is no more res-integra in view of what has been observed by the Hon’ble Supreme Court in the aforesaid judgment, albeit in that factual context. No doubt, a judgment is in the context of the facts of a particular case and in that context the ratio of the judgment has to be seen. If we see the said ratio, while coming to a conclusion in favour of the petitioner, in that case one of the parameters requiring the candidate to clear 10+2 examination from the State of Punjab would be fulfilled if such a candidate has passed 10+2 from a school in Chandigarh on the ground that Chandigarh was the capital of State of Punjab. The ratio would apply with all force even in the present case keeping in mind the limited declaration which is being sought now by learned counsel for the petitioner.”



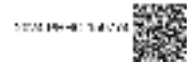
Learned counsel for the respondents has not been able to rebut the said contention.

Once, the Hon'ble Supreme Court of India has held that any Department of U.T. Chandigarh is to be treated as part of the State of Punjab, learned counsel for the respondents has not been able to rebut the said findings of the Hon'ble Supreme Court of India in the case of **Raminder Singh Nagra (supra)** and the same being followed by the Division Bench of this Court in the case of **Harleen Cheema (supra)**.

Hence, the claim of the petitioners is squarely covered by the judgments mentioned hereinbefore so as to treat the National Health Mission, Department of Health and Family Welfare, Chandigarh, where the petitioners are working i.e. National Health Mission, is also operating in the State of Punjab as well, the petitioners are entitled for the grant of marks for experience. The claim of the petitioners be evaluated by giving them benefit of marks for experience while working under the National Health Mission being posted at Chandigarh. In case the petitioners come within the merit, keeping in view the marks obtained by the last selected candidate in the category in which petitioners are competing, they be considered and in case, they are found more meritorious, they be also granted benefit of appointment against the vacant posts which are lying vacant out of the advertised posts.

It may be noticed that in case, the petitioners are found entitled for the grant of benefit of appointment, they will be given the said benefit notionally from the date when the candidate lower in merit has been appointed but they will be given benefit of actual salary from the date of their actual appointment only.

Learned counsel for the petitioners submits that as per his



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instructions, the petitioners will be satisfied in case, they be given benefit of appointment notionally and they will not claim any actual financial benefit from the date, the candidate lower in merit has been appointed.

Let the present order be complied with within a period of 08 weeks from the date of receipt of copy of this order.

Present petitions are allowed in above terms.

Civil miscellaneous application pending, if any is also disposed of.

A photocopy of this order be placed on the files of connected cases.

November 29, 2024
aarti

(HARSIMRAN SINGH SETHI)
JUDGE

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