



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

209

CWP-29432-2022 (O&M)

Decided on : 18.05.2024

SUMMY SINDHU AND ANR.petitioners
Versus

STATE OF HARYANA AND OTHERSRespondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PRESENT: Mr. Tejpal Singh Dhull, Advocate for the petitioner.

Mr. Pankaj Middha, Additional Advocate General, Haryana.

HARSIMRAN SINGH SETHI, J. (Oral)

In the present petition, the grievance being raised by the petitioners is that their claim for appointment to the post of Staff Nurse as advertised vide advertisement No. 15/2019 dated 07.09.2019 (Annexure P-2) issued by the Haryana Staff Selection Commission, against which the petitioners have duly been selected but the appointment letter issued by the respondents for their appointment on the post in question has been withdrawn in an illegal and arbitrary manner.

Certain facts may be mentioned for the correct appreciation of the issue in hand.

The petitioners applied for the post of staff nurse in pursuance to the advertisement No. 2/2019 dated 07/08.03.2019 (Annexure P-1) issued by Pandit Bhagwat Dayal Sharma University of Health Sciences, Rohtak. The petitioners had applied under the category of the dependent of ex-serviceman. The petitioner appeared for the examination qua the post of Staff nurse to be filled up in Pandit Bhagwat Dayal Sharma University of Health Sciences, Rohtak and ultimately got selected for the post the question. The petitioners have also been issued appointment letter for the post in question,



copy of which has been appended as Annexure P-3. The petitioners joined the post of Staff Nurse in Pandit Bhagwat Dayal Sharma, University of Health Sciences, Rohtak on 18.05.2021. Simultaneously, the Haryana Staff Selection Commission (herein after referred as 'HSSC') also issued an advertisement No. 15/2019 (Annexure P-2) advertising the post of Staff Nurse. The petitioners also applied and competed for the post of staff nurse under the dependent of ex-serviceman category in pursuance to the advertisement No. 15/2019 (Annexure P-2).

Thereafter, the result of the post of staff nurse to be filled up in various government Hospitals as advertised by the Haryana Staff Selection Commission vide advertisement No. 15/2019 was also declared and the petitioners also got selected for the post in question, but, the respondents though recommended the name of the petitioners for appointment on the post in question, but did not grant them the benefit of appointment on the ground that the petitioners have already availed the benefit of being dependent of ex-serviceman while taking the appointment against the post of Staff Nurse in Pandit Bhagwat Dayal Sharma University of Health Sciences, Rohtak, hence, the petitioners cannot be granted the benefit of dependent of ex-serviceman once again and the appointment letter dated 10.07.2022 issued to the petitioners for the appointment on the post in question in respect of advertisement No. 15/19 was withdrawn. The said action of the respondents for not giving appointment to the petitioners on the post in question is under challenge in the present petition.

Learned counsel for the petitioners submits that the petitioners had applied for the post of staff nurse advertised vide advertisement No. 15/2019 (Annexure P-2) prior to their selection and appointment against the post of staff Nurse in Pandit Bhagwat Dayal Sharma University of Health



Sciences, Rohtak and as per the instructions which have been issued by the Government of Haryana dated 09.03.2022 as clarified on 13.04.2022 in which, it has been mentioned that in case, the ex-serviceman or his dependent has applied for various vacancies before joining any civil employment, he/she can take the benefit of reservation in any one of the subsequent employment as well. Hence, as the petitioners had applied for the post of staff nurse as advertised vide advertisement No. 15/2019 (Annexure P-2) issued by the Haryana Staff Selection Commission(HSSC) prior to the selection and appointment in respondent-3/institution, the petitioners was entitled to be appointed on the post in question keeping in view the recommendation given by the respondents in respect of advertisement No. 15/2019.

Upon notice of motion, the respondents have filed the reply. In the reply, the respondents have stated that once, the petitioners have already joined the post of Staff Nurse in Pandit Bhagwat Dayal Sharma University of Health Sciences, Rohtak, they were no longer the dependent upon the ex-serviceman hence, the benefit of subsequent selection in pursuance to the advertisement NO. 15/2019 (Annexure P-2) issued by HSSC, cannot be granted under the same reserved category of dependent of ex-serviceman and the claim for appointment of the petitioners has rightly been declined by the respondents.

Learned counsel for the respondents further submits that the instructions dated 09.03.2022 which have been clarified on 13.04.2022 came subsequent to the joining of the petitioners in Pandit Bhagwat Dayal Sharma University of Health Sciences, Rohtak and hence, the said instructions cannot be made applicable upon the petitioners and only the instructions issued prior to the date when the advertisement No. 15/2019 (Annexure P-2) was issued



can be made applicable.

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

It is conceded fact that the petitioners had applied for both the post i.e. post of staff nurse to be filled up in Pandit Bhagwat Dayal Sharma University of Health Sciences, Rohtak as well as post of staff nurse advertised vide advertisement No. 15/2019 by Haryana Staff Selection Commission to be filled up in the various government Hospitals prior to being selected in Pandit BD Sharma University. Once, the selection process for the post of Staff Nurse as advertised vide advertisement No. 15/2019 (Annexure P-2) issued by the HSSC was not over by the time the petitioners were selected in Pandit BD Sharma University, the petitioners had no choice but to join Pandit Bhagwat Dayal Sharma University of Health Sciences, Rohtak as the petitioners never knew that they will also be selected for the post of Staff nurse as advertised by the HSSC vide advertisement No. 15/2019 as well.

Once, the petitioners were selected for the post of Staff Nurse issued by the HSSC also, the benefit of the instructions dated 09.03.2022 as clarified on 13.04.2022 should have been extended to the petitioners. As per the instructions dated 09.03.2022 as clarified on 13.4.2022, it has already been made clarified that in case an ex-serviceman or dependent of the ex-serviceman has applied for various vacancies before joining the civil employment, he/she can avail the benefit of reservation of ex-serviceman/dependent of ex-serviceman for any one subsequent appointment on the post in question. Keeping in view the said instructions, the petitioners were entitled for the grant of appointment on the post in question in pursuance to the advertisement No.15/2019 issued by the HSSC



as they had already applied for the post in question prior to being selected and appointed against the post of staff Nurse in Pandit Bhagwat Dayal Sharma, University of Health Sciences Rohtak

The argument of the learned counsel for the respondents that the instructions dated 09.03.2022 as clarified on 13.04.2022 were not in operation at the time when the petitioners applied for the post in question and hence, the same cannot be made applicable upon the petitioners in pursuance to the advertisement No. 15/2019 cannot be accepted. The relief to be given to the ex-serviceman or dependent of the ex-serviceman is only to recognize the services of an ex-servicemen or to give the benefit to the dependent of ex-serviceman. The same is in a nature of rehabilitating or recognizing the services rendered by the ex-serviceman. Nothing has come on record that the instructions dated 09.03.2022 as clarified on 13.04.2022 were only to be made effective with regard to the advertisement which will be issued after the said date. In the absence of any such clause in the instructions dated 09.03.2022 as clarified on 13.04.2022 and keeping in view the facts and circumstances of the present case recorded herein above, the present petition is allowed.

The petitioners are held entitled to opt for the post of Staff Nurse in pursuance to the advertisement No. 15/2019 issued by HSSC. Let the petitioners be granted the appointment on the post of Staff Nurse in pursuance to the advertisement No. 15/19 as per their merit obtained in the selection process for the post in question with effect from the date candidate lower in merit have been appointed on the post in question in pursuance to the advertisement No. 15/2019 (Annexure P-2) issued by HSSC.

It is made clear that as the petitioners are already working in another institution, the retrospective appointment will only be notional and



no financial benefits will be extended to the petitioners except the experience and the seniority from the date candidate lower in merit were appointed on the post in question by the HSSC.

Let the present order be complied with in the period of eight months from the receipt of certified copy of this order.

The present petition is allowed in above terms.

Pending civil miscellaneous application, if any, stands disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

18.05.2024

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Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*