

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

2025:PHHC:052912



(108+259)

**CM-5764-CWP-2025 in/and
CWP-3554-2024
Decided on: 24.04.2025**

Bimla Devi

.....Petitioner (s)

Versus

State of Haryana & others

.....Respondent(s)

CORAM : HON'BLE MR.JUSTICE VINOD S.BHARDWAJ

Present:- Mr.R.K.Malik, Sr.Advocate
with Mr.Kartikey Chaudhary, Advocate, for the petitioner.

Mr.Rahul Dev, Addl.A.G., Haryana.

VINOD S.BHARDWAJ, J. (Oral) :

CM-5764-CWP-2025

Application for placing on record replication to the written statement filed by respondent No.3, is allowed. Replication is taken on record, subject to just exceptions. Office to append the same at appropriate place.

CWP-3554-2024

1. Petitioner has raised challenge to the order dated 28.11.2023 (Annexure P-7) passed by the Haryana Staff Selection Commission (for short, the 'HSSC') vide which recommendation of the petitioner for the post of Multipurpose Health Worker (Female) under Dependent of Freedom Fighter category has been withdrawn.

2. Learned Senior Counsel appearing for the petitioner contends that respondent-HSSC had, vide advertisement No.15/2019, invited applications for the posts of Multipurpose Health Worker (Female). As per the Government instructions dated 15.07.2014, 2% seats were reserved for the children/grand-children of the Freedom Fighters. It is also prescribed in the said Government instructions that the said quota would be available only if the posts remain unfilled due to non-availability of suitable Ex-servicemen or their dependents or candidates from Backward Classes. Undisputedly, out of 106 posts of Backward Class category and 40 posts of ESM General category, a large number of posts remained vacant under the ESM General category. Learned Senior Counsel contends that the petitioner being a matriculate and having passed the ANM Training Course from Haryana Nurses & Nurse Midwives Council in 2011, submitted the application, being fully eligible for the said post. He further contends that even though the petitioner got married in the year 2008, no family member of the petitioner i.e. husband, father-in-law, mother-in-law or any member of the family was in Government job and only her brother was in Government job.

3. The petitioner being under a *bona-fide* impression that she was eligible for the benefit under the Socio-Economic criteria and weightage of 5 marks, claimed the said benefit. In the final result that was declared, the petitioner was shown to have obtained 39 marks in the written examination and 5 marks were awarded to her under the Socio-Economic criteria, thus, a grand total of 44 marks were given and she was shown as selected under the ESM General category.

4. Learned Senior Counsel appearing for the petitioner contends that a total of 3 persons were eventually recommended by the respondents under the Dependent of Freedom Fighter category including the petitioner with a total marks of 44, one Roshni with a total of 39 marks and one Sheela with 33 marks. He submits that Sheela, who had secured 33 marks, did not opt to join. Thus, the petitioner along with Roshni, were to be appointed under the category of Dependents of Freedom Fighter. He contends that the respondents are however not allowing the petitioner to now join on the pretext that the certificates submitted by her were not duly attested by an Executive Magistrate. It is vehemently contended by Senior Counsel appearing for the petitioner that notwithstanding the certificates furnished being not attested by an Executive Magistrate and weightage of 5 marks for the Socio-Economic criteria being withdrawn, the petitioner none-the-less secured 39 marks and would thus be entitled to grant of appointment.

5. Learned State Counsel, on the other hand, contends that the petitioner specifically filled-up her form and put a tick mark so as to avail the weightage of 5 marks under the Socio-Economic criteria despite being fully aware that she was not eligible. He however is not in a position to dispute that the petitioner had secured 39 marks in the written examination and even if the weightage of 5 marks under the Socio-Economic criteria is withdrawn, she would nonetheless be eligible to be offered appointment on her own merit. It is also not disputed that respondents had also offered appointment to a candidate, namely, Sheela, who had secured 33 marks. Hence, the marks secured by the petitioner are more than that of the last recommended candidate by the respondent-HSSC.

6. Hence, in the peculiar facts and circumstances of the case and after hearing learned counsel for the parties, I find that the State Counsel has not been able to deny or dispute that the petitioner would in any case be eligible for appointment even on her own merit.

7. Consequently, the present writ petition is allowed. Respondents are directed to offer appointment to the petitioner, within a period of 3 months from the date of receipt of certified copy of this order in accordance with law. Seniority and other benefits shall notionally relate back to the date of initial recommendation by the respondents-HSSC, though actual benefits shall be released w.e.f. expiry of a period of 3 months or the actual appointment, whichever is earlier.

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

24.04.2025
Sailesh

(VINOD S.BHARDWAJ)
JUDGE

Whether speaking/reasoned :	Yes	
Whether Reportable :	Yes	No