
(2010) 08 P&H CK 0419
In the Punjab And Haryana At Chandigarh

Kamlesh Kumari

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 12-08-2010

Acts Referred:

Citation : (2010) 08 P&H CK 0419

Hon'ble Judges : Ranjit Singh, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Ranjit Singh, J.—The petitioner was working as a Staff Nurse in the Health Department, where she was appointed on 27.6.1985. Her services were subsequently regularised with effect from May 1986. In the year 2007, respondent No. 2 sought details of Staff Nurses/Nursing Sisters for their consideration for promotion to the post of Sister-Tutor. Respondent No. 3 was to furnish this detail. The said detail was not directly sought from the employees, who were aspiring for the promotion. The case of the petitioner for promotion was not considered simply on the ground that her application was sent late. This is a precise stand now taken in the reply filed before the Court. It is disclosed that respondent No. 3 was to forward the names of interested eligible Staff Nurses/Nursing Sisters for promotion to the post of Sister-Tutor within seven days from the date of receipt of communication dated 8.2.2007. This letter was received in the office of Civil Surgeon on 19.2.2007, which was then circulated on 21.2.2007. The petitioner statedly applied too late and sent her application to respondent No. 3, Civil Surgeon, on 28.3.2007. The said application was forwarded and received in the office of respondent No. 2 on 14.4.2007. Since it was too late, the case of the petitioner was not considered for promotion on the post of Sister-Tutor. It is further disclosed that respondent No. 2 promoted the petitioner against the post of Public Health Nurse on 7.9.2007. It is accordingly prayed that the present writ petition be dismissed.

2. The justification to deny consideration to the petitioner is only that her

application was received late. Though part of the blame is also attributed to the petitioner for late submission of her application, but what is to be seen is whether a person has a right of consideration and could such right of consideration be denied on the ground that the application was received late. Laying down condition that those who are interested for being considered for promotion should sent their applications within 15 days, would in itself may sound unreasonable. In any case, the applications were not sought from the employees directly and it was not in their hands to forward the applications by a particular date or time. Once the application, if any, was to be forwarded by the respondent, Civil Surgeon, the responsibility for late receipt or late sending of the application could not be assigned to the petitioner as such. Accordingly, the petitioner has apparently not been treated in a fair manner for consideration for promotion to the post of Sister-Tutor. The consideration for promotion is constitutionally guaranteed right though promotion as such, may not be a such right. Since the petitioner has been denied consideration of promotion, the prayer made in the writ petition for her consideration deserves to be considered and allowed.

3. The writ petition is accordingly allowed with a direction to the respondents to consider the claim of the petitioner for promotion on the post of Sister-Tutor from the date any of her junior was so promoted. Let the necessary exercise be completed within a period of two months from the date of receipt of copy of this order.