

Kamlesh Kumari Vs State of Haryana and Others

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Aug. 12, 2010

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.