



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Writ Petition No. 19918/2024

Smt Jaswant Kaur W/o Shri Pritam Singh D/o Shri Pyare Singh,
Aged About 32 Years, Resident Of Ward No. 30, 13/35, Mukta
Prasad Basti, New Railway Colony, Bikaner.

----Petitioner

Versus

1. State Of Rajasthan, Through The Principal Secretary,
Department Of Medical And Health And Family Welfare,
Government Of Rajasthan, Jaipur.
2. Joint Government Secretary, Medical And Health (Group-
3) Department, Government Of Rajasthan, Jaipur.
3. Additional Director (Administration), Medical And Health
Services, Tilak Marg, Swasthya Bhawan, Jaipur.

----Respondents

For Petitioner(s)	:	Mr. Ankit Bhaskar
For Respondent(s)	:	Mr. Tanuj Jain for Mr. Mukesh Dave, AGC

HON'BLE MR. JUSTICE ARUN MONGA

Order (Oral)

04/12/2024

1. The petitioner has approached this Court challenging the
letter/order dated 02.09.2024 (Annexure 8), which rejected her
candidature for the post of Female Health Worker (Nurse). She
also seeks a direction to the respondents to consider her
application, taking into account her disability certificate dated
06.12.2017 (Annexure 2).
2. Brief Facts are as below :
 - 2.1. The respondents issued an advertisement on 19.05.2023
(Annexure 3) for the direct recruitment of Female Health Workers.



The petitioner applied under the specially-abled category and was called for document verification on 13.09.2023. She attended the verification process and underwent a medical examination on the same day, following which her candidature was verbally rejected.

2.2. The petitioner submitted an application requesting a re-medical examination and consideration of bonus marks for her work during the COVID-19 pandemic. However, no action was taken. A Grievance Redressal Committee was constituted by the respondent department, which considered her grievance but rejected it on the ground that her type of disability was not eligible under the relevant criteria. Consequently, this petition was filed.

3. I have heard the learned counsel for the petitioner and Mr. Manuj Jain, representing Mr. Mukes Dave, AGC, who appeared on advance service of the petition.

4. It is undisputed that the petitioner has a 61% disability in both legs due to polio, rendering her unable to walk unaided. While she certainly deserves sympathetic consideration under the provisions of the Right of Persons with Disabilities Act, 2016, the crucial question is whether her specific disability qualifies for reservation under the policy detailed in the advertisement.

4.1. The relevant clause of the advertisement, translated into English, is as follows:

"9. As per the provisions of the Rajasthan Special Persons (Equal Opportunities, Protection of Rights, and Full Participation) Rules, 2018, 4% reservation is provided to persons with disabilities. Candidates will be adjusted to the positions within their category. Only candidates with 40% or more disability, as specified in the Notification dated 07.01.2021 by the Ministry of Social Justice and Empowerment, Government of India, are eligible for reservation for posts related to Lady Health Visitors. Candidates whose disabilities do not fall under the specified categories for the post will not be eligible to apply under any other category."



4.2. The advertised condition *ibid* is as per the guidelines specifying the disabilities eligible for reservation for the post of Female Health Worker (Nurse/Nursing Assistant), as outlined in the Gazette Notification dated 07.01.2021, the relevant extract of which is:



586	<i>Nurse, General</i>	<i>S, ST, W, MF, RW, SE, H, C</i>	<i>(a) LV (b) OL, CP, LC, Dw, AAV (c) SLD, MI (d) MD involving (a) to (c)</i>	<i>Gives beside care in cases of illness, asslsts Physician in examination and operation of patient and performs other nursing tasks. Maintains record of patient's treatment, temperature, respiration, pulse rate, nourishment, progress, etc. Administers medicines and injections, as prescribed: dresses wounds and renders first aid.</i>	<i>The work is performed inside as well as outside, the work place is a well-lighted rooms. The incumbent should be considered with aids and appliances. The worker works alone and also.</i>
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Examination of the above reflects that the duties of a Female Health Worker/Nurse are reserved only for candidates with a single-leg disability.

5. In this case, the petitioner has a disability in both legs, making her unsuitable for the nature of the job as per the specified guidelines. Her prior service on a temporary basis does



not confer a right to demand reservation in contravention of the rules or advertisement.

5.1. Pertinently, it is also to be noted that other candidates with similar disabilities have been disqualified under the same criteria.

Granting the petitioner's claim would result in reverse discrimination against similarly disqualified candidates who are not before this Court.

6. Neither the advertisement nor the guidelines prescribing the reservation criteria are under challenge in this petition. The respondents have acted in accordance with the policy, and no fault can be found in their decision to reject the petitioner's candidature. Concededly, in the present case, petitioner suffers disability in both her legs, which makes her unsuitable to the nature of duties. Merely because, she has been already serving on the said post, though not on permanent basis, would not confer any equity on her to claim that she should be provided reservation in violation of either the aforesaid guidelines or the advertisement.

7. Needless to say those who are similarly situated as the petitioner herein, have also been equally disqualified on the same ground. To accept the claim of the petitioner would amount to reverse discrimination with those who are not before this Court.

8. In the parting, I may hasten to add, at the cost of repetition, that neither the advertisement nor the aforesaid guidelines are under challenge before this Court and, therefore, I see nothing wrong on the part of the respondents to have provided reservation in accordance thereof.

9. In view of the above, I find no ground to interfere. The writ petition is thus dismissed.



10. All pending application(s), if any, shall also stand disposed of.

(ARUN MONGA),J

50-skm/-

Whether fit for reporting : Yes / No

