

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH
CIVIL MISC. NO. OF 2021
IN
CIVIL WRIT PETITION NO. 1674 OF 2021

Rajeev Gaur and others. ...Petitioners

Versus
State of Haryana and others. ...Respondents

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Total Court Fee Affixed

CHANDIGARH (JASPAL SINGH MAANIPUR)
(P157/88)

Dated : 26.07.2021 (MRS.GURPREET KAUR SUDAN) &
(P/2077-1/2010)

(JOY PREET MEELU)
(P/2114/2014)
ADVOCATES
Counsel for the added respondent Nos. 5 to 10

IN THE HIGH COURT OF PUNJAB AND HARYANA AT

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CHANDIGARH

(JASPAL SINGH MAANIPUR)
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Rajeev Gaur and others. ...Petitioners

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APPLICATION under Order 1 Rule 10 C.P.C.

read with Section 151 C.P.C. and Article 226 of
the Constitution of India for impleading the
Applicants Shikha Thakur D/o Shri Ravinder
Kumar and others, as respondent Nos. 5 to 10 in
the Writ Petition, as they are the necessary party;

AND

Any other appropriate order, which this Hon'ble
Court may deem fit, just and proper in the facts
and circumstances of this case may also be passed.

RESPECTFULLY SHOWETH

1. That the aforesaid Writ Petition has been disposed
of by this Hon'ble Court on July 15, 2021 with a direction to
the official respondents to allow the petitioners (B.A.M.S.),

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applied for the post of Health Providers-cum-Community Health Officers without having the requisite qualification of six months' Bridge Course, which is mandated by the terms and conditions of the Advertisement dated 28.12.2020 (Annexure P-3). Due to this direction, the added respondents have been put out of the zone of appointment and the petitioners are put within the zone of appointment.

2. That in order to make it crystal clear to this Hon'ble Court, the particulars of the added respondents are being given as under:-

Sr. No.	Name & Address of the Applicant	Registration No.	Roll No.	District Applied for
1.	Shikha Thakur D/o Ravinder Kumar, aged about 21 years 10 months (Date of Birth 04.09.1999, Aadhaar Card No. 9505 9836 3312, Resident of Village Saroh Post Office Chamiari Tehsil Bangana, District Una (H.P.)	2067106681	211438	Ambala
2.	Parveen D/o Om Bir, aged about 21 years 9 months (Date of Birth 19.10.1999), Aadhaar Card No.9653 7880 8606, Resident of village Chhapar, District Bhiwani (Haryana).	2067101739	211748	Hisar
3.	Jaswant Meghwal son of Raja Ram, aged about 27 years (Date of Birth 15.07.1994), Aadhaar Card No. 4694 5552 1363, Resident of VPO Thalarka, Ward No. 04, Tehsil Nohar, District Hanumangarh (Rajasthan).	2067100385	210323	Kurukshetra

4.	Shruti D/o Rajender Kumar, aged about 21 years 10 months (Date of Birth 04.09.1999), Aadhaar Card No. 3448 0588 8594, Resident of Village Shamashpur, P.O. Kalsora, Tehsil Indri, District Karnal (Haryana).	2067109961	211477	Karnal
5.	Satpal son of Durga Ram, aged about 24 years 1 month (Date of Birth 03.06.1997), Aadhaar Card No. 9044 6980 5774, Resident of Ward No.5, 6, MDWM, Loonkhan, Bikaner, District Bikaner (Rajasthan).	2067101231	210756	Hisar
6.	Sunil Kumar son of Mahendra Singh, aged about 23 years 10 months (Date of Birth 06.09.1997), Aadhaar Card No. 4733 9752 1895, Resident of Ward No. 12, Badwa Walo Ka Mohalla, Bhadra, District Hanumangarh (Rajasthan).	2067100801	210848	Hisar

3. That since by virtue of the direction of this Hon'ble Court, they have been made sufferer, as they have been put out of the zone of appointment, Therefore, their presence before this Hon'ble Court was necessary in order to enable this Hon'ble Court to effectively and completely to adjudicate and set all the questions involved in the present writ petition, they were required to be added as Respondent Nos. 5 to 10.

4. That in the interest of justice, their presence is required and they be allowed to be impleaded as added as

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Respondent Nos. 5 to 10 in the Writ Petition. In case they are not allowed to be impleaded as party in the writ petition, they will suffer an irreparable loss and injury, which cannot be compensated by any other means.

5. That the added respondents No. 5 to 10 be impleaded with the following address:-

- i. Shikha Thakur D/o Ravinder Kumar, aged about 21 years 10 months (Date of Birth 04.09.1999, Aadhaar Card No. 9505 9836 3312, Resident of Village Saroh Post Office Chamiari Tehsil Bangana, District Una (H.P.)
- ii. Parveen D/o Om Bir, aged about 21 years 9 months (Date of Birth 19.10.1999), Aadhaar Card No.9653 7880 8606, Resident of village Chhapar, District Bhiwani (Haryana).
- iii. Jaswant Meghwal son of Raja Ram, aged about 27 years (Date of Birth 15.07.1994), Aadhaar Card No. 4694 5552 1363, Resident of VPO Thalarka, Ward No. 04, Tehsil Nohar, District Hanumangarh (Rajasthan).
- iv. Shruti D/o Rajender Kumar, aged about 21 years 10 months (Date of Birth 04.09.1999), Aadhaar Card No. 3448 0588 8594, Resident of Village Shamashpur, P.O. Kalsora, Tehsil Indri, District Karnal (Haryana).
- v. Satpal son of Durga Ram, aged about 24 years 1 month (Date of Birth 03.06.1997), Aadhaar Card No. 9044 6980 5774, Resident of

Ward No.5, 6, MDWM, Loonkhan, Bikaner, District Bikaner (Rajasthan).

vi. Sunil Kumar son of Mahendra Singh, aged about 23 years 10 months (Date of Birth 06.09.1997), Aadhaar Card No. 4733 9752 1895, Resident of Ward No. 12, Badwa Walo Ka Mohalla, Bhadra, District Hanumangarh (Rajasthan).

6. That upto date memo of parties is filed after ascertaining from Registry. Amended memo of parties is attached herewith.

It is, therefore, respectfully prayed that this application may kindly be allowed and the added respondents No. 5 to 10 be impleaded as party with the following address:-

- i. Shikha Thakur D/o Ravinder Kumar, aged about 21 years 10 months (Date of Birth 04.09.1999, Aadhaar Card No. 9505 9836 3312, Resident of Village Saroh Post Office Chamiari Tehsil Bangana, District Una (H.P.)
- ii. Parveen D/o Om Bir, aged about 21 years 9 months (Date of Birth 19.10.1999), Aadhaar Card No. 9653 7880 8606, Resident of village Chhapar, District Bhiwani (Haryana).
- iii. Jaswant Meghwal son of Raja Ram, aged about 27 years (Date of Birth 15.07.1994), Aadhaar Card No. 4694 5552 1363, Resident of VPO Thalarka, Ward No. 04, Tehsil Nohar, District

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Hanumangarh (Rajasthan).

- iv. Shruti D/o Rajender Kumar, aged about 21 years 10 months (Date of Birth 04.09.1999), Aadhaar Card No. 3448 0588 8594, Resident of Village Shamashpur, P.O. Kalsora, Tehsil Indri, District Karnal (Haryana).
 - v. Satpal son of Durga Ram, aged about 24 years 1 month (Date of Birth 03.06.1997), Aadhaar Card No. 9044 6980 5774, Resident of Ward No.5, 6, MDWM, Loonkhan, Bikaner, District Bikaner (Rajasthan).
 - vi. Sunil Kumar son of Mahendra Singh, aged about 23 years 10 months (Date of Birth 06.09.1997), Aadhaar Card No. 4733 9752 1895, Resident of Ward No. 12, Badwa Walo Ka Mohalla, Bhadra, District Hanumangarh (Rajasthan).

Any other appropriate order, which this Hon'ble Court may deem fit, just and proper in the peculiar facts and circumstances of this case may also be passed in the interest of justice.

NOTE: AFFIDAVIT IS ATTACHED.

Dated : 26.07.2021 (MRS.GURPREET KAUR SUDAN) &
(P/2077-1/2010)

(JOY PREET MEELU)
(P/2114/2014)
ADVOCATES
Counsel for the added respondent Nos. 5 to 10

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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IN

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AFFIDAVIT OF Added Respondent No. 7,

Jaswant Meghwal son of Raja Ram, aged about 27

years (Date of Birth 15.07.1994), Aadhaar Card

No. 4694 5552 1363, Resident of VPO Thalarka,

Ward No. 04, Tehsil Nohar, District Hanumangarh

(Rajasthan).

I, the above named deponent do hereby solemnly
affirm and declare on oath as under: -

1. That the Application has been drafted as per instructions of the deponent and the deponent has gone through the contents of the Application and the same has been read

i.

over and explained to me in the language known to the deponent, which are true and correct to my knowledge.

2. That the contents of para No. 1 to 6 of the Application are true and correct to my knowledge, and belief.

CHANDIGARH

DATED: 26.07.2021

DEPONENT

VERIFICATION

Verified that the contents of my above affidavit are true and correct to my knowledge and belief as well as knowledge and belief of all the other co-applicants/ added respondent Nos. 5 to 10. No part of it is false and nothing has been kept concealed therein.

CHANDIGARH

DATED 26.07.2021

DEPONENT

Added respondent No.7 on behalf of all the other added respondent Nos. 5 to 10.

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT

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AMENDED MEMO OF PARTIES

1. Rajeev Gaur son of Dharampal Sharma, aged about 30 years resident of 117/2, Ghataser (284), Mahendragarh, Haryana 123001.
2. Garima daughter of Bharam Prakash Vashist, aged about 27 years, resident of House No.171/7, Rajiv Chowk, Hans Enclave, Gurugram, Haryana.
3. Amit Kumar son of Dharampal, aged about 34 years, resident of Dhanunda (3), resident of Mahendragarh, Haryana 123 021.
4. Sapna Yadav wife of Amit Kumar aged about 34 years resident of Dhanunda (3), resident of Mahendragarh, Haryana 123 021.
5. Nitin Barkodia son of Banwari Lal Barkodia . aged about 39 years, resident of Shankar Colony, House No.188, Mahendragarh, Haryana 123 029.

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6. Kokila Megha wife of Nitin Barkodia, aged about 40 years, resident of Shankar Colony, House No. 188, Mahendragarh, Haryana 123 029.
 7. Neetu Sharma care of Dheeraj Mehta, aged about 29 years, resident of Kultajpur (155), Mahendragarh, Haryana 123 001.
 8. Pankaj Kumar son of Rakesh Kumar, aged about 30 years, resident of 7013, Ward No.8, Vishal Colony, Dharuhera, NA, Dharuhera, Malpura (295), Industrial Area Dharuhera, Rewari Haryana 123 110.
 9. Sunil Kumar Isharwal son of Rajpal, aged about 33 years resident of House No.40, Ward No.04, Talwani (101), Bhiwani, Haryana, 127 043.
 10. Archana wife of Sunil Kumar Isarwal, aged about 33 years resident of House No.45, Ward No.04, Talwani (101), Bhiwani, Haryana, 127 043.
 11. Kiran wife of Vikas Bhardwaj, aged about 30 years resident of Ward No.3, Village Khera, Khera (126) , Bhiwani , Haryana 127 046.
 12. Devender son of Amar Singh, aged about 31 years, resident of House No.99, Village Sherpura, Kalod (115) Bhiwani, Haryana 127 046.
 13. Sunil Sharma son of Ram Kumar, aged about 37 years, resident of Rakhi Khas (76), Hisar, Haryana, 125 039.

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14. Rachna daughter of Shiv Kumar, aged about 26 years, resident of Rakhi Shahpur (81), Rakhi Shahpur, Hisar, Haryana 125 039.
15. Amit Kumar son of Satbir Singh aged about 35 years, resident of House No.518, Sec-6P, Hansi, Hisar, Haryana 125 033.
16. Ajit Kumar son of Bajrang Dass, aged about 33 years, Resident of Parbhawala (116), Hisar, Haryana 125 113.
17. Pardeep Kumar son of Suresh Kumar, aged about 33 years, resident of Tigrana (10), Tigrana, Bhiwani, Haryana – 127031.
18. Kamna Dagar wife of Rahul Singh Sangwan, aged about 34 years, resident of House No.1930, Near Bhiwani Public School, Sector 13, HUDA, Bhiwani, Haryana 127 021.
19. Neha Rani care of Vikram Yadav, aged about 28 years, resident of SB-4, New Bharat Nagar, Near New Shiv Mandir, Bhiwani, Haryana, 127 021.
20. Jyoti care of Virender, aged about 27 years, resident of Machhroli (204), Jhajjar, Haryana , 124 108.
21. Pooja wife of Manish Yadav, aged about 28 years, resident of 1, Shri Ram Nagar Vistar, Jhotwara, Jhotwara, Jaipur, Rajasthan 302012.

22. Vikram Yadav son of Satbir Yadav, aged about 32 years, resident of SB-4, New Bharat Nagar, Bhiwani, Haryana 127 021.
23. Amit son of Suraj Mal, aged about 36 years, resident of 211-09, Jasbir Colony , Rohtak, Haryana.
24. Seema wife of Parveen Kadyan aged about 33 years, resident of Near DAV School, Kalanpura Kalan (Part) (126), Rohtak, Haryana 124 113
25. Vikas son of Krishan Chandar, aged about 34 years, resident of Ward No.18, Saraswati Brahmno Ki Gali, Village Tigrana, Tigrana (10), Bhiwani, Haryana, 127 031.
26. Sandeep son of Raghbir Singh aged about 30 years, resident of Bhelipana, Gurana (20), Hisar, Haryana 125 121.
27. Alka wife of Sandeep aged about 31 years, resident of Gurana (20), Hisar, Haryana – 125 121.
28. Indu care of Naveen Kumar, aged about 29 years, resident of Ward No.8, Sainik Colony, Near Balu Wali Well, Jhajjar, Haryana- 124103.
29. Jyoti Chhikara daughter of Jabbar Singh, aged about 23 years, resident of D.R-5/1, Shekhpura, Near Prince Hol. Palwal, Haryana- 121102.

30. Gaurav Kumar son of Prahlad Singh, aged about 27 years, resident of New Friends Colony, Baluda Road, Ward No.5, Sohna, Gurugram, Haryana -122 103.
31. Neelam Yadav wife of Parveen Kumar aged about 33 years, resident of Khalipuri (179), Majra Sheoraj, Rewari, Haryana -123401.
32. Ritu Ahlawat daughter of Yashvir Singh, aged about 27 years, resident of Shanti Nagar, Kount Road, Near Bharat Gas Agency, Bhiwani, Haryana -127 021.
33. Naresh Yadav son of Dharampal Singh, aged about 35 years, resident of House No.181/4, Kolana, Kolana (22), Kund, Rewari, Haryana -123 102.
34. Jyoti Rani daughter of Randhir Singh, aged about 26 years, resident of House No.844, 8 Marla Colony, Jatol Road, Village Town Panipat, Tehsil & District Panipat, Haryana.
35. Heena Kaushik wife of Madhu Sudan, aged about 32 years, resident of House No. 891/29, Kamal Colony, Rohtak, Haryana – 124 001.
36. Yogender son of Sh. Dharambeer Singh, aged about 31 years, resident of Badwali Chopal, Assaudha Sewan (29), Jhajjar, Haryana -124 505.

37. Priyanka Kaushik wife of Ashwani Sharma, aged about 35 years, resident of House 54/10, Sir Chhotu Ram Colony, Nirwana, Jind , Haryana 126 116.
38. Pradeep son of Satish Deswal, aged about 30 years, resident of Dharoli Road, Deswal Clinic, Pilu Kheda Mandi, Pilu Kheda (17), Jind, Haryana 126 113.
39. Sarala Malik daughter of Dharamveer, aged about 29 years resident of Juhi Kalan (67), Juhi Khurd, Bhiwani, Haryana, 127030.
40. Monika wife of Naveen Kumar Singhmar, aged about 32 years, resident of H. No.440, Ninriwali, Ninriwali (104), Bhiwani, Haryana 127 309.
41. Navneet son of Jagmal Singh, aged about 38 years, resident of Village Paintawas Khurd, Kitlana (106), Kitlana, Bhiwani, Haryana – 127309.
42. Vineet Kumar son of Jagmaal Singh aged about 34 years Resident of Village Paintawas Khurd, Kitlana Dadri, Bhiwani, Haryana – 127309.
43. Jyotsna wife of Vineet Kumar, aged about 33 years, resident of Paintawas Khurd (109), Bhiwani, Haryana - 127 309.
44. Swati daughter of Anoop Singh Sheoran, aged about 28 years, resident of 549, Gali No.4, Near Bus Stand Karala, Karala, North West Delhi, Delhi – 110081.

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45. Pinki Sharma daughter of Suresh Kumar aged about 29 years, resident of House No. 776, UE-II, Near N.Y.P.S., Hisar, Haryana – 125 001.
 46. Amit Kumar son of Mange Ram, aged about 24 years, resident of Kari Rupa, Bhiwani, Haryana -127 308.
 47. Atul Khatri son of Balbir Singh, aged about 32 years, resident of 402, Niwaz Nagar, Niwaz Magar (132), Mahendragarh, Haryana -123 001.
 48. Neha daughter of Narendra Pal aged about 30 years, resident of 588/23, Khandsa Road, Near Police Chowki, Gurgaon, Haryana – 122001.
 49. Munesh wife of Sandeep Kumar aged about 29 years, resident of H. No.249, Serla, Bhiwani, Haryana 127 028.
 50. Anjula Sheoran daughter of Anoop Singh Sheoran, aged about 30 years, resident of 549, Gali No.4, Near Bus Stand Karala, Karala, North West Delhi, Delhi – 110081.

...Petitioners

VERSUS

1. The State of Haryana through the Secretary to Government, Haryana, Department of Health and Family Welfare, Haryana Civil Secretariat, Chandigarh.
2. The Mission Director, National Health Mission (Haryana), Bays No. 55-58, Sector 2, Panchkula (Haryana).

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3. The State Health Society, Haryana, through its Secretary, Bays No. 55-58, Sector 2, Panchkula (Haryana).
 4. The Director, Ayurveda Yoga and Naturopathy Unani, Siddha and Homeopathy (AYUSH), Near Youth Hostel, Sector 3, Panchkula (Haryana).
 5. Shikha Thakur D/o Ravinder Kumar, aged about 21 years 10 months (Date of Birth 04.09.1999, Aadhaar Card No. 9505 9836 3312, Resident of Village Saroh Post Office Chamiari Tehsil Bangana, District Una (H.P.)
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 8. Shruti D/o Rajender Kumar, aged about 21 years 10 months (Date of Birth 04.09.1999), Aadhaar Card No.

3448 0588 8594, Resident of Village Shamashpur, P.O.
Kalsora, Tehsil Indri, District Karnal (Haryana).

9. Satpal son of Durga Ram, aged about 24 years 1 month
(Date of Birth 03.06.1997), Aadhaar Card No. 9044 6980
5774, Resident of Ward No.5, 6, MDWM, Loonkhan,
Bikaner, District Bikaner (Rajasthan).

10. Sunil Kumar son of Mahendra Singh, aged about 23
years 10 months (Date of Birth 06.09.1997), Aadhaar
Card No. 4733 9752 1895, Resident of Ward No. 12,
Badwa Walo Ka Mohalla, Bhadra, District Hanumangarh
(Rajasthan).

CHANDIGARH

(JASPAL SINGH MAANIPUR)
(P157/88)

Dated : 26.07.2021

(MRS.GURPREET KAUR SUDAN) &
(P/2077-1/2010)

(JOY PREET MEELU)

(P/2114/2014)

ADVOCATES

Counsel for the added respondent Nos. 5 to 10

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

REVIEW APPLICATION NO. OF 2021

IN

CIVIL WRIT PETITION NO. 1674 OF 2021

Rajeev Gaur and others. ...Petitioners

Versus

State of Haryana and others. ...Respondents

REVIEW APPLICATION on behalf of the Applicants/ Added Respondent Nos. 5 to 10, under Order 47 Rule 1 C.P.C. read with Section 151 CPC and Article 226 of the Constitution of India for reviewing/ recalling the order/ judgment dated 15.07.2021 (Annexure RA-1) passed by this Hon'ble High Court in Civil Writ Petition No. 1674 of 2021 (O & M) "*Rajeev Gaur and others Versus State of Haryana and others*" on the grounds mentioned herein below and in light of the law laid down by the Hon'ble Apex Court of India in para 12 of the judgment in case of "*Chandigarh Administration through the Director Public Instructions (Colleges), Chandigarh Versus Usha Khetarpal Waie and others*" reported as 2012 (1) RSJ 58 SC , further in para 31 of the judgment in

case of “*Bedanga Talukdar vs Saifudaullah Khan & Ors reported as 2012 (4) RSJ page 608*” and further recently in para 10 of the judgment in case of “*Maharashtra Public Service Commission Versus Sandeep Shriram Warade and others*” reported as 2019 (3) SCT 18 , whereby it has been held that **it is the right of the employer to decide requirements a candidate must possess the qualifications according to the needs of the employer and the nature of work and the court cannot lay down the conditions of eligibility, much less can it delve into the issue with regard to desirable qualifications being at par with the essential eligibility by an interpretive rewriting of the advertisement.** As in the case in hand, as per the Advertisement (Annexure P-3) dated 28.12.2020, it is the pre-requisite qualification for having completed their six months Bridge Course for B.A.M.S. or B.Sc. , Post Basic B.Sc. Nursing Degree Holders and other Equivalent Qualification. But, by the direction of this Hon’ble Court the same has been waived without amending the Advertisement;

AND

Any other appropriate order may also be passed, which this Hon'ble Court may deem fit, just and proper in the peculiar facts and circumstances of this case.

RESPECTFULLY SHOWETH

1. That alongwith this Application, the Application for adding the applicants- respondents as party in the writ petition i.e. added respondents No. 5 to 10 is also filed.

2. That this Hon'ble Court while deciding the aforesaid Writ Petition on July 15, 2021 issued direction to the official respondents to allow the B.A.M.S petitioners to apply for the advertised posts and proceed with the selection process in accordance with law. It was further directed that if they are selected, then they have to undergo the Bridge Course after selection. The Writ Petition was disposed of alongwith many other Writ Petitions. Complete photo copy of the judgment / order dated July 15, 2021 passed by this Hon'ble Court is being attached herewith as *ANNEXURE RA-1*.

3. That in order to make it crystal clear and for the ready reference of this Hon'ble Court, the Essential Eligibility Criteria is being reproduced as under:-

A. Essential Eligibility Criteria:

(i) BAMS or B.Sc. Post Basic B.Sc. Nursing Degree Holders, who have completed their six month Mid-Level Health Provider's Bridge Course Programme or Certificate in Community Health for Nurses (BPCCHN) from IGNOU or any State University Institution.

Or

(ii) B.Sc. Post Basic B.Sc. Nursing Graduates, who have completed their Degree with Mid-Level Health Provider's Certificate Course (BPCCHN) integrated in the curriculum of B.Sc./Post Basic B.Sc. Nursing"

4. That it is also pleaded by the official respondents in their written statement specifically in para 3 of the preliminary submissions that the criteria incorporated in the advertisement is totally in consonance with the norms and guidelines prescribed by the Government of India. For the ready reference of this Hon'ble Court, para 3 of the preliminary submissions of the written statement is being reproduced as under:-

"3. That the criteria incorporated in the advertisement is totally in consonance with the norms and guidelines prescribed by the

Government of India. Even otherwise, as per the settled legal preposition of service Jurisprudence it is always the sole discretion of the department-employer concerned to invite applications from any particular category of degree holders while conducting requirements.

The said criteria has been formulated especially keeping in view the gradual changes in the health priorities with passage of time and also with an intent to strengthen, fortify and organize the health carte services in the larger public interest.”

5. That despite that objection and well settled legal position as held by the Hon'ble Supreme Court of India in case of “*Chandigarh Administration through the Director Public Instructions (Colleges), Chandigarh Versus Usha Khetarpal Waie and others*” reported as 2012 (1) RSJ 58 SC , further in case of “*Bedanga Talukdar vs Saifudaullah Khan & Ors* reported as 2012 (4) RSJ page 608 and further recently in case of “*Maharashtra Public Service Public Service Commission Versus Sandeep Shriram Warade and others*” reported as 2019 (3) SCT 18, ignoring the terms and conditions of the advertisement, this Hon'ble Court issued direction to the official respondents to allow the petitioners to procure that Six Months' Bridge Course after appointment, particularly when it

is a pre-requisite condition in the advertisement. Therefore, in this way, it is re-writing the conditions of the advertisement.

6. That the Hon'ble Apex Court of India has consistently held that with regard to the criteria/ qualification prescribed for the post, is the prerogative of the employer and it cannot be interfered. It has been firstly considered by the Hon'ble Apex Court of India in case of "*Chandigarh Administration through the Director Public Instructions (Colleges), Chandigarh Versus Usha Khetarpal Waie and others*" reported as 2012 (1) RSJ 58 SC and in para 12 and 13 of the judgment it has been *held as under*:-

“ 12. The Tribunal and High Court also committed an error in holding that the appellant could not prescribe the qualifications of Ph.D. for the post of principal merely because earlier the said educational qualification was not prescribed or insisted. The Recruitment Rules were made in consultation with UPSC, to give effect to the UGC guidelines which prescribed Ph.D. degree as the eligibility qualification for direct recruitment of Principals. In fact, even the 1976 Punjab Rules prescribed Ph.D. degree as a qualification. In several States, Ph.D. is a requirement for direct

recruitment to the post of a college Principal. When the said qualification is not unrelated to the duties and functions of the post of Principal and is reasonably relevant to maintain the high standards of education, **there is absolutely no reason to interfere with the provision of the said requirement as an eligibility requirement.** It is now well settled that it is for the rule-making authority or the appointing authority to prescribe the mode of selection and minimum qualification for any recruitment. Courts and tribunals can neither prescribe the qualifications nor entrench upon the power of the concerned authority so long as the qualifications prescribed by the employer is reasonably relevant and has a rational nexus with the functions and duties attached to the post and are not violative of any provision of Constitution, statute and Rules. [See J. Rangaswamy vs. Government of Andhra Pradesh - 1990 (1) SCC 288 and P.U. Joshi vs. Accountant General - 2003 (2) SCC 632]. In the absence of any rules, under Article 309 or Statute, the appellant had the power to appoint under its general power of administration and prescribe such

eligibility criteria as it is considered to be necessary and reasonable. Therefore, it cannot be said that the prescription of Ph.D. is unreasonable.

13. The Tribunal and the High Court have held that in the years 1989 and 1991, the Tribunal had accepted the earlier administrative instructions dated 20.8.1987 which required the UT cadre employees to be considered for the post has to be followed. The fact that at that time Ph.D. degree was not insisted upon, does not mean that for all times to come, Ph.D. degree could not be insisted. **Ph.D. degree was made a qualification because UGC guidelines required it for direct recruitment post and the UPSC approved the same.** Therefore, merely because on some earlier occasions, the posts of Principal were filled by UT cadre lecturers without Ph.D. degree, it cannot be argued that the Ph.D. degree cannot be prescribed subsequently.”

7. That in another case, the Hon'ble Supreme Court of India in case of *Bedanga Talukdar vs Saifudaullah Khan & Ors reported as 2012 (4) RSJ page 608* even held that if there is a provision of relaxation in the Rules, but it was not given in the advertisement, the same cannot be given effect. By the

learned Court. For the kind perusal and ready reference of this Hon'ble Court, relevant para 29 and 31 in this regard are being reproduced as under:-

"29. A perusal of the advertisement in this case will clearly show that there was no power of relaxation. In our opinion, the High Court committed an error in directing that the condition with regard to the submission of the disability certificate either along with the application form or before appearing in the preliminary examination could be relaxed in the case of respondent No. 1. Such a course would not be permissible as it would violate the mandate of Articles 14 and 16 of the Constitution of India.

31. In the face of such conclusions, we have little hesitation in concluding that the conclusion recorded by the High Court is contrary to the facts and materials on the record. It is settled law that there can be no relaxation in the terms and conditions contained in the advertisement unless the power of relaxation is duly reserved in the relevant rules and/or in the advertisement. Even if there is a power of relaxation in the rules, the same

would still have to be specifically indicated in the advertisement. In the present case, no such rule has been brought to our notice. **In such circumstances, the High Court could not have issued the impugned direction to consider the claim of respondent No.1 on the basis of identity card submitted after the selection process was over, with the publication of the select list.”**

8. That recently, the Hon’ble Supreme Court of India in case of “*Maharashtra Public Service Public Service Commission Versus Sandeep Shriram Warade and others*” reported as 2019 (3) SCT 18 has held that prescription of desired qualification for appointment to a post is the prerogative of the employer. They are the best judge. It has been so held in para 10 of the judgment. Therefore, for the kind perusal of this Hon’ble Court para 10 of the judgment is being reproduced as under:-

“10. The essential qualifications for appointment to a post are for the employer to decide. The employer may prescribe additional or desirable qualifications, including any grant of preference. It is the employer who is best suited to decide the requirements a candidate must possess according to the needs of the employer and the nature of

work. The court cannot lay down the conditions of eligibility, much less can it delve into the issue with regard to desirable qualifications being at par with the essential eligibility by an interpretive rewriting of the advertisement. Questions of equivalence will also fall outside the domain of judicial review. **If the language of the advertisement and the rules are clear, the Court cannot sit in judgment over the same.** If there is an ambiguity in the advertisement or it is contrary to any rules or law the matter has to go back to the appointing authority after appropriate orders, to proceed in accordance with law. **In no case can the Court, in the garb of judicial review, sit in the chair of the appointing authority to decide what is best for the employer and interpret the conditions of the advertisement contrary to the plain language of the same.”**

9. That in view of the aforesaid well settled consistent legal position, the order passed by this Hon'ble Court dated 15.07.2021 (Annexure RA-1) is required to be recalled/

reviewed, as it amounts to re-writing of the advertisement, which is not permissible in the eyes of law.

10. That in light of the aforesaid well settled legal position, the contention raised by the petitioners has no merits to the effect that in the earlier advertisement six months' Bridge Course was not the pre-requisite essential qualification as well as other States also are not prescribing the same course, as essential pre-requisite qualification for appointment. For the sake of repetition, it is submitted that it is the prerogative of the employer to prescribe the qualification for the post and they are the best judge themselves. They have to see which qualification is the most suitable and appropriate to select the best candidates. Thus, on this basis also the order passed by this Hon'ble Court needs to be recalled/ reviewed, as it amounts to re-writing of the Advertisement.

11. That it is further submitted that having Bridge Course, sufficient number of candidates are available in the market. So, it is not desirable for the employer to waive this qualification for other categories. Furthermore, number of candidates like the petitioners and answering respondents, who have not the six months' Bridge Course having considered themselves being ineligible on the basis of this requisite qualification. Therefore, by allowing them to complete in the

selection is violation of the mandate of Articles 14 and 16 of the Constitution of India.

12. That these grounds are just and sufficient to recall/ review the order dated 15.07.2021 (Annexure RA-1) passed by this Hon'ble Court in the aforesaid writ petition.

It is, therefore, respectfully prayed that in view of the submissions made herein above, this Review Application may kindly be allowed and the judgment/ order dated 15.07.2021 (Annexure RA-1) passed in Civil Writ Petition No.1674 of 2021 may kindly be reviewed/ recalled and the Civil Writ petition of the petitioners be dismissed as they are lacking the pre-requisite condition of Six Months' Bridge Course, as per the Advertisement, in the interest of justice and equity.

It is further prayed that during the pendency of the Review Application, operation of the order/ judgment of this Hon'ble Court dated 15.07.2021 (Annexure RA-1) may kindly be stayed, otherwise it will cause harm to the Applicants/ added respondent Nos. 5 to 10.

It is further prayed that filing of certified copy of the document marked as Annexure RA-1 be also exempted and photo copy thereof, which is legible, be accepted.

Any other appropriate relief which this Hon'ble Court may deem fit, just and proper in the facts and circumstances of this case may also be granted to the Applicants / added respondent Nos. 5 to 10, in the interest of justice and equity.

NOTE: Affidavit is attached.

Dated : 26.07.2021 (MRS.GURPREET KAUR SUDAN) &
(P/2077-1/2010)

(JOY PREET MEELU)
(P/2114/2014)
ADVOCATES
Counsel for the added respondent Nos. 5 to 10

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

REVIEW APPLICATION NO. OF 2021
IN
CIVIL WRIT PETITION NO. 1674 OF 2021

Rajeev Gaur and others. ...Petitioners

Versus

State of Haryana and others. ...Respondents

AFFIDAVIT OF Added Respondent No. 7,
Jaswant Meghwal son of Raja Ram, aged about 27
years (Date of Birth 15.07.1994), Aadhaar Card
No. 4694 5552 1363, Resident of VPO Thalarka,
Ward No. 04, Tehsil Nohar, District Hanumangarh
(Rajasthan).

I, the above named deponent do hereby solemnly
affirm and declare on oath as under: -

1. That the accompanying Application for Reviewing/ recalling the order/ judgment dated 15.07.2021 is being filed, which has been drafted as per the instructions of the deponent-Applicants/ added respondents and the contents thereof have been read over to the deponent in the language known to him and the same may kindly be read as part and parcel of this affidavit.

2. That the contents of para No.1 to 12 of the Application are true and correct to the knowledge of the deponent. The legal submissions have been made on the advice of the counsel which are also believed to be true and correct. No part of it is false and nothing has been concealed therein.

3. That prior to this the deponent/ applicants-added respondents have not filed any such or similar application for review/recalling the order (Annexure RA-1) passed in the aforesaid writ petition.

CHANDIGARH

DATED: 26.07.2021

DEPONENT

VERIFICATION

Verified that the contents of my above affidavit are true and correct to my knowledge and belief as well as knowledge and belief of all the other co-applicants/ added respondent Nos. 5 to 10. No part of it is false and nothing has been kept concealed therein.

CHANDIGARH

DATED 26.07.2021

DEPONENT

Added respondent No.7 on behalf of all the other added respondent Nos. 5 to 10.

Bureau RH

203 (16 cases)

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

CWP-1674-2021 (O&M)

Date of decision: 15.07.2021

Rajeev Gaur and ors	...Petitioners
Versus	
State of Haryana and ors	...Respondents
Along with	
CWP-4171-2021 (O&M)	
Anju Poonia	...Petitioner
Versus	
State of Haryana and another	...Respondents
CWP-4671-2021 (O&M)	
Sonali Khurana	...Petitioner
Versus	
State of Haryana and ors	...Respondents
CWP-1761-2021 (O&M)	
Ritu and another	...Petitioners
Versus	
State of Haryana and ors	...Respondents
CWP-5482-2021 (O&M)	
Pardeep Yadav and ors	...Petitioners
Versus	
State of Haryana and ors	...Respondents
CWP-5483-2021 (O&M)	
Rectu Saini	...Petitioner
Versus	
State of Haryana and another	...Respondents
CWP-5485-2021 (O&M)	
Parveen and ors	...Petitioners
Versus	
State of Haryana and ors	...Respondents

CWP-5486-2021 (O&M)

Pooja Sharma and ors ...Petitioners
 Versus
 State of Haryana and another ...Respondents

CWP-5487- 2021 (O&M)

Sunil Kumar and ors ...Petitioners
 Versus
 State of Haryana and ors ...Respondents

CWP-5489-2021 (O&M)

Shakshi ...Petitioner
 Versus
 State of Haryana and another ...Respondents

CWP-5490-2021 (O&M)

Kuldeep Kumar and others ...Petitioners
 Versus
 State of Haryana and ors ...Respondents

CWP-5500-2021 (O&M)

Yogesh Rolan and ors ...Petitioners
 Versus
 State of Haryana and ors ...Respondents

CWP-6115- 2021 (O&M)

Krishan and ors ...Petitioners
 Versus
 State of Haryana and ors ...Respondents

CWP-5488-2021(O&M)

Ainandeep Kaur Narula and ors ...Petitioners
 Versus
 State of Haryana and another ...Respondents

CWP-4365-2021 (O&M)

Uma Saini ...Petitioner
 Versus
 State of Haryana and another ...Respondents

CWP-10896-2021 (O&M)

Sunita Devi and another ...Petitioners
 Versus
 State of Haryana and ors ...Respondents

CORAM: **HON'BLE MR. JUSTICE ARUN MONGA**

Present: **Mr. Lekh Raj Sharma, Advocate,**
Mr. Sajjan Singh, Advocate,
Mr. P.K.Ganga, Advocate,
Mr. Lalit Kumar Yadav, Advocate,
Mr. Mukesh Rao, Advocate,
Mr. Vijay Pal, Advocate,
Mr. Vikram Sheoran, Advocate,
Mr. Parth Goyal, Advocate,
Mr. Munish Kumar Garg, Advocate,
Mr. Deepak Singh Saini, Advocate,
Mr. V.D.Sharma, Advocate,
Mr. Ashish, Advocate,
Mr. S.S.Khillianwala, Advocate,
for the petitioners.

**Mr. Lokesh Sinhal, Senior Additional A.G., Haryana
for the official respondents-State.**

(Presence marked through Video Conference)

ARUN MONGA, J. (ORAL)

This order will dispose of a bunch of the abovesaid Civil Writ Petitions as the material questions for adjudication are the same or within the same ambit.

2. Short controversy arising herein is from the grievance of the petitioners qua the mandatory condition of having first done a six months' Bridge course programme on certificate in community health for nurses (BPCCHN) from IGNOU or any other State University/Institution as a pre-condition for being eligible to apply for the post of Health Providers-cum-Community Health Officers on regular basis. As per advertisement dated 28.12.2020 issued by State Health Society, Haryana 671 posts are to be filled up. The grounds pleaded by the petitioners, *inter alia*, are that envisaged mandatory 6 months prior course (BPCCHN) was not even in

existence when they finished their B.A.M.S. degree in graduation. Even otherwise, it is the argument of learned counsel for the petitioners that the aforesaid six months' Bridge course can only be undertaken, only if the State Government/Health Department sponsors the in service selected candidates to undergo the said training. They submit that without being in service or without being sponsored, applications for doing the said course are not being entertained by the IGNOU.

3. In the premise, the said pre-condition is highly oppressive and frustrates the right of the petitioners to apply for the post, despite having the requisite educational qualification.

4. On a Court query, Mr. Lokesh Sinhal, learned Sr. Additional Advocate General, Haryana, under instructions of Dr. Sarita Yadav (SS) NHM, Haryana, submits that in case, the petitioners are willing to give an undertaking, upon being successfully selected, that they shall obtain the requisite certificate of Bridge course programme in community health from IGNOU, subject of course to their being sponsored by the Department/NHM. There is no objection by the State Health Society for their applying on the advertised posts subject to the aforesaid undertaking by the petitioners.

5. All the learned counsels appearing for the petitioners are *ad idem* that they have the instructions from the petitioners to state that they are ready and willing, and shall undergo the aforesaid Bridge course as a pre-requisite to continue in service, provided the State Health Society sponsors them to do so.

6. In the premise, the writ petitions are disposed of with a direction to the official respondents to allow the petitioners to apply for the advertised posts and proceed with the selection process in accordance with law. Needless to say, that in case, the petitioners are selected, they shall then have to undergo the Bridge course as aforesaid. Along with their application form pursuant to the advertisement, they shall also give an undertaking to the same extent.

7. It is, however, made clear that the applicants, who have either already undergone the Bridge course during the pendency of the proceedings or had otherwise done it before filing of the writ petition, they will not have to give such undertakings. Rest of the candidates shall give their undertakings within two weeks of the date of declaration of the result.

8. Disposed of in above terms.

9. Pending application, if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

July 15, 2021
Vandana

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No