

2025:PHHC:049928



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

226

**CWP-6623-2020 (O&M).
Date of Decision: 08.04.2025.**

KAMLESH

...Petitioner

Versus

STATE OF HARYANA AND OTHERS

...Respondents

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

Present: Mr. Deepak Grover, Advocate,
for the petitioner.

Mr. Tapan Kumar, DAG, Haryana.

VINOD S. BHARDWAJ. J (ORAL).

Challenge in the present writ petition is to the order dated 29.01.2020 (Annexure P-3) passed by respondent No.4-Senior Medical Officer, Community Health Centre, Hathin, Palwal, whereby the petitioner has been reverted from the post of Asha Facilitator to Asha Worker.

2025:PHHC:049928



2 Learned counsel appearing for the petitioner contends that the petitioner has been working as Asha Worker under the respondents. It was noticed by the respondent authorities that P.H.C. Hathin was having 5 sub-centers where a total of 48 Asha Workers were working. It was also noticed that as per the guidelines, one Asha Facilitator is required against 25 Asha workers whereas there was only one Asha Facilitator against 48 Asha workers and as such numerous difficulties were being faced in execution of the work. Noticing that one more Asha Facilitator would be required, the Civil Surgeon, CHC, Hathin, Palwal approved the joining of the petitioner as Asha Facilitator. The said proceedings were signed on 02.01.2020. However, SMO, CHC, Hathin, sent a letter to the petitioner on 29.01.2020, informing her that for being promoted to the post of Asha Facilitator, a person is required to possess 10+2 Qualification whereas the petitioner was found wanting in possessing 10+2 Qualification. A show cause notice was accordingly served upon her for filing the reply. As the said aspect was not disputed, hence, vide order dated 29.01.2020 (Annexure P-3), the petitioner was reverted from the post of Asha Facilitator and was re-designated as Asha Worker. Aggrieved thereof, the present writ petition has been filed.

3 A written statement had been filed by the respondents wherein the factual aspect has not been disputed, however, it was pointed out that as per the approved guidelines and eligibility criteria prescribed, the petitioner did not fulfill the academic qualifications and at the time

2025:PHHC:049928



when the authorities considered the case of the petitioner and recommended her for promotion to the post of Asha Facilitator, her academic qualification was not noticed nor any such relaxation was exercised.

4 Be that as it may, this Court vide order dated 15.02.2024, directed the State to apprise as to whether the petitioner is eligible to be appointed as Asha Facilitator and if not, for what reasons. In compliance thereto, a written statement through Senior Medical Officer, Community Health Centre, Hathin had been filed wherein it is stated that the proposal of the designation of the petitioner from Asha Worker to Asha Facilitator vide PUC dated 05.01.2020 had been obtained from the Civil Surgeon, Palwal bypassing the revised criteria for designation of Asha Facilitators issued by the National Health Mission Haryana vide letter dated 30.09.2016 according to which for designation as Asha Facilitator, the prescribed qualification is 10+2, however, on realizing that the petitioner did not fulfill such minimum qualification criteria, hence, the authorities took steps immediately and accordingly a notice was sent by the respondents to the petitioner on 29.01.2020 and even a departmental enquiry was got conducted and it was submitted that all the selection committee members responsible for promotion of the petitioner from the post of Asha worker to Asha Facilitator took a wrong decision. PUC dated 05.01.2020 had not been processed through the official branch as there was no record thereof. It is averred that the petitioner is only 8th pass and

2025:PHHC:049928



that as per the revised criteria, no person who does not fulfil the qualification of 10+2 has been promoted. The relevant extract of the preliminary submissions is reproduced hereinafter below:-

“2. It should be noted that no formal joining letter was issued to the petitioner regarding her designation as ASHA Facilitator and the PUC was just an internal proposal of the office and the petitioner is considering this as her appointment letter, which is not considerable. Subsequently, upon realizing that the petitioner is not possessing the requisite educational qualification (i.e. 10+2 pass) as per the revised selection criteria, the designation of petitioner as ASHA Facilitator was withdrawn by the Senior Medical Officer, Incharge Community Health Centre, Hathin vide letter Dated 29/01/2020 (Annexure-R/3). The Petitioner has challenged the PUC Dated 05/01/2020 (Annexure-R/1), which is an internal official preceding document, and not an appointment letter.

3. Now, the Respondent No. 3 vide letter Dated 23/02/2024 (Annexure-R/4), constituted an Inquiry Committee regarding designation of the petitioner as ASHA Facilitator and the Inquiry Committee has submitted its Report (Annexure-R/5); according to which the petitioner was removed from the post of ASHA Facilitator on 29/01/2020 and since then she is working as ASHA only on incentive basis, as the petitioner was not eligible for ASHA Facilitator and these days also not fall in the parameters of ASHA Facilitator. Further, agreeing with the Inquiry Report, the Civil Surgeon Palwal has commented that all the Selection Committee Members were responsible for the

2025:PHHC:049928



wrong selection of petitioner as ASHA Facilitator. Further, the then Civil Surgeon Palwal signed the impugned PUC Dated 05/01/2020 directly, which was not processed through the Official Branch, as there is no record thereof in the O/o Civil Surgeon Palwal. The Inquiry Report has been forwarded by the Civil Surgeon Palwal to the higher Authorities for information and necessary action against the selection committee members.

4. That the petitioner was not eligible to be designated as ASHA Facilitator being admittedly the qualification of the petitioner is only class 8th pass but as per revised guidelines the required minimum qualification is 10+2 pass, and therefore, the petitioner was rightly reverted from the post of ASHA Facilitator.

5. That as per original guidelines (Annexure-R/6 and Annexure R/7) criteria for selection of ASHA Facilitator upto the year 2015, was as under:-

i. One ASHA Facilitator from each PHC

ii. ASHA Facilitator should have effective communication skills, leadership qualities and be able to reach out the community.

iii. Best performing ASHA in the area is selected as ASHA Facilitator.

But thereafter, in the year 2016, Selection Criteria for designation of ASHA Facilitators was revised as mentioned in the Annexure-R/2, and Annexure-R/8; upon which services of all 618 ASHA Facilitators in the State were discontinued w.e.f. 01/10/2015 vide letter Dated 22/09/2015. The services

2025:PHHC:049928



of all sanctioned 32 ASHA Facilitators in District Palwal were also discontinued w.e.f. 01/10/2015 and these days also the total sanctioned strength of ASHA Facilitator for District Palwal is 32, which were totally filled-up before the designation of petitioner as ASHA Facilitator. The total strength of ASHA Facilitators for District Palwal sanctioned by the National Health Mission, Haryana are also mentioned in Annexure-R/8.

6. *That after discontinuation of services of all 618 ASHA Facilitators in the State of Haryana, the ASHA Facilitators of 08 District of State filed a CWP No. 17484 of 2016 against withdrawal of their services w.e.f. 01-10-2015, and thereafter, all the 618 ASHA Facilitator were re-enrolled vide letter Dated 30/09/2016 through revised selection criteria (Annexure-R-2); subject to the condition that, "Written Test and Skill Test will be conducted for selection of 900 ASHA Facilitators (including re-enrolled 618) with 10+2 education qualification". Even, the Hon'ble High Court was also apprised at the time of passing the final order Dated 19/09/2016 in CWP No. 1784 of 2016 (i.e. Pisto Yadav & Others vs State of Haryana & Others) that, "the Written test is likely to be conducted to assess the skill evaluations of the ASHA Facilitators. Suffice it to observe any such Written Test of skill evaluation is being contemplated would apply across the board" (Annexure-R/9). But the petitioner has not gone through any such written test & skill test, nor possessing the requisite educational qualification (i.e. 10+2 pass), thereby, the petitioner don't fulfill the requisite criteria for selection as a ASHA Facilitator.*

2025:PHHC:049928



7. It is important to mention here that after implementation of the revised selection criteria (2016), no ASHA has been designated as ASHA Facilitators in District Palwal, who are not meeting the requisite educational qualification (i.e. 10+2 Pass), except the petitioner, who was not formally designated as ASHA Facilitator. In the FY 2023, 03 vacant posts of ASHA Facilitators have been filled up in district Palwal by way of adopting the revised selection criteria (2016) and all 03 newly designated ASHA Facilitators are possessing the requisite educational qualification (i.e. 10+2).”

5 No rejoinder/replication has been filed by the petitioner to the specific pleadings made by the respondents in the written statement.

6 I have heard the learned counsel for the respective parties and have also gone through the documents available on record.

7 From a perusal of the documents, it transpires that undisputedly, the petitioner did not possess the requisite qualification of 10+2 for being promoted as Asha Facilitator. The petitioner is only 8th pass whereas the qualification required for being promoted as Asha Facilitator is 10+2. Further, the said requisite educational qualification of 10+2 for being promoted as Asha Facilitator has not been relaxed by the respondent State at any point of time. It is also pointed out that after implementation of the revised criteria, no Asha worker has been designated as Asha Facilitator in District Palwal, who does not possess the

2025:PHHC:049928



minimum qualification of 10+2. It has also remained uncontroverted that even though PUC was approved, however, no appointment letter as Asha Facilitator was issued to the petitioner.

8 The facts which remain undisputed are that it was only on account of an error that the selection committee made a recommendation of the petitioner for being designated as Asha Facilitator. In pursuance to the PUC approved by the Civil Surgeon, no formal letter of appointment had been issued to her. The error/mistake on the part of the parties came to the notice immediately and within a period of 02 weeks, a notice was issued to the petitioner as to why the aforesaid approval/decision be not taken back and the petitioner be reverted to the post of Asha worker.

9 I find that a mere error on the part of the respondents in processing the case of the petitioner while being unaware of the academic qualifications and without taking any conscious decision on the eligibility of the petitioner cannot be sufficient to confer a right in favour of the petitioner for being promoted to the post of Asha Facilitator notwithstanding the petitioner not fulfilling the requisite eligibility conditions. Besides, no exception has been made by the respondents in favour of any person and no mitigating circumstances have been pointed out by the petitioner either in the writ petition or by way of filing counter/replication as to the order of relaxation, if any, extended to the petitioner.

2025:PHHC:049928



10 In view of above, I do not find any illegality, perversity, or violation of principles of natural justice by the respondents in rectifying an error by reverting the petitioner to the post of Asha worker. The present petition is thus dismissed.

April 08, 2025
raj arora

(VINOD S. BHARDWAJ)
JUDGE

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