
(2022) 04 SHI CK 0041

In the High Court Of Himachal Pradesh

Case No : Civil Writ Petition No. 2344 Of 2022

Dr. Charu Sharma

APPELLANT

Vs

State Of Himachal Pradesh And Others

RESPONDENT

Date of Decision : 19-04-2022

Acts Referred:

Citation : (2022) 04 SHI CK 0041

Hon'ble Judges : Mohammad Rafiq, CJ; Jyotsna Rewal Dua, J

Bench : Division Bench

Advocate : Sanjeev Kumar Motta, Ashok Sharma, Nand Lal Thakur

Final Decision : Disposed Of

Judgement

Mohammad Rafi, CJ

1. This writ petition has been filed by the petitioner- Dr. Charu Sharma, who is working with the respondents on the post of Ayurvedic Medical Officer, aggrieved by her transfer from Government Ayurvedic Hospital Bharmour, District Chamba to Government Ayurvedic Health Center, Gurhal, District Kangra, H.P.

2. The contention of the petitioner is that she joined the services of the respondents as Ayurvedic Medical Officer at Government Ayurvedic Hospital Bharmour, District Chamba on 29.08.2019 on contract basis. Her services were regularized after completion of two years. Her husband is also working as Ayurvedic Medical Officer at Government Medical Hospital at Behi-Pathiar in district Kangra, H.P. They are having infant child aged one and half years. According to learned counsel for the petitioner, she has submitted a representation to the Secretary (Ayush) to the Government of Himachal Pradesh-respondent No.2, indicating therein three places of her choice in district Kangra for her transfer and also mentioning the fact that her husband is working as Ayurvedic Medical Officer at Government Medical Hospital at Behi-Pathiar in district Kangra, H.P. and as per the Policy of the Government, they should be kept/posted at the same place or nearby places but the respondents did not

consider her request and transferred her to Government Ayurvedic Health Center, Gurhal, District Kangra.

3. Learned counsel for the petitioner has invited attention of the Court towards Clause 5.4 of the Transfer Policy of the respondents contained in office memorandum dated 10.07.2013, according to which, in case wife and husband both are working under the State Government, efforts should be made to post them at one place or near places as far as possible subject to vacancy. Attention of the Court is also invited to Clause 16.1 of the said Policy, which provides that on completion of normal tenure in Difficult/Tribal/Hard/Remote areas, the concerned officers/officials would have an option of five stations of choice, which would be for more than one district and as far as possible, efforts would be made to post them in any one station of their choice of that category of stations in which he/she has not served earlier.

4. Mr. Nand Lal Thakur, learned Additional Advocate General submitted that as per Clause 16.1 of the aforesaid Policy, the petitioner was required to give option of five places in two districts, whereas in the representation placed on record, only three places were given and that too only in one district i.e. Kangra. Secondly, he argued that it is not known whether or not the posts are vacant at these places. Even as per Clause 5.4 of the said Policy, efforts have to be made to post husband and wife at one place or nearby places as far as possible subject to availability of posts.

5. Having regard to the rival submissions, we are inclined to observe that the hardship is an issue, which is to be considered by the employer, as otherwise the petitioner, who is in Government service is liable to be transferred in any where in the State. The Policy circular issued by the State Government is meant for their internal guidance. Therefore, it would be open for the petitioner to approach respondent No.3 by inviting his attention to the aforesaid Clauses contained in the Transfer Policy by making a detailed representation, specifying therein five stations of her choices at least in two districts, who shall in turn, consider and decide the same within a period of fifteen days from the date of the submission of the representation alongwith a copy of this order.

With the aforesaid observations, the writ petition is disposed of, so also the pending miscellaneous application(s), if any.