
(2020) 07 SHI CK 0247

In the High Court Of Himachal Pradesh

Case No : Civil Writ Petition No. 2115 Of 2020

Dr. Jitender Kumar

APPELLANT

Vs

State Of Himachal Pradesh And Others

RESPONDENT

Date of Decision : 13-07-2020

Acts Referred:

Citation : (2020) 07 SHI CK 0247

Hon'ble Judges : Tarlok Singh Chauhan, J; Jyotsna Rewal Dua, J

Bench : Division Bench

Advocate : Nitin Thakur, Ajay Vaidya

Final Decision : Disposed Of

Judgement

Tarlok Singh Chauhan, J

1. The instant writ petition has been filed for the grant of following substantive reliefs:

(i) Direct respondent No.1 to consider posting of the petitioner at DEIC under Regional Hospital Una, District Una as there is vacancy; and/or

(ii) Direct respondent No.1 to consider posting the petitioner at Block Amb District Una as there are two female doctors i.e. Dr. Honey Sandhu and Dr. Sheetal Katoch which is contrary to the policy; and/or

(iii) Directing respondent No.1 to posting the petitioner nearer to District Hamirpur or District Kangra if there is a vacancy arising."

2. The prayer made by the petitioner can only be considered by the employer as it pertains to a policy matter.

3. In taking this view, we are fortified by the observations made by a co-ordinate Bench of this Court in decision rendered in a batch of petitions, the lead being CWP No. 3559 of 2019, titled Dr. Vishal Pathania vs. State of H.P. and others, decided on 26.11.2019.

4. It shall be apposite to refer to the observations made in para-8 therein, which read as under:

"We are in agreement with the stand taken by the respondent-State that in those areas where the work is already finished or is on lesser side, however, the number of Mobile Health Teams is proportionately on higher side to deploy such teams in those areas where the work is still in progress or on higher side. The rationalization required to be made on this score cannot be termed as illegal and arbitrary, because to allow the teams to continue in those areas where sufficient work is not available would amount to wastage of man power and also the funds provided for the purpose. Otherwise also, under the programme each Mobile Health Team has been given the target of screening the children per day. In case, in a particular area, sufficient work is not available, contemplating such target to each team under the programme will lose its significance. Therefore, the rationalization fulfilling the test of fairness, reasonableness of course on taking into consideration the disabilities/ difficulties of any member of the teams so constituted would always be in the success of the programme which has been launched to fulfill a very noble cause i.e., to screen the children in rural areas having no medical facilities and even awareness also amongst the parents. We hope and trust that the respondents while rationalizing the man power under the programme shall take into consideration the test of fairness and reasonableness and also the personal disabilities/difficulties of any member of the team, keeping in view that the petitioners and other staff has been selected/deployed on a particular project under the programme to fulfill its aim and object and also that the man power including the petitioners having been engaged to fulfill this task are on contract basis and financially also not so sound. Therefore, the efforts to post them as far as possible at the nearest places should be made while rationalizing the work and constituting teams for those areas where the work is still on higher side. No other and further direction in the given facts and circumstances of this case can be issued. As a matter of fact, it would rather be for the petitioners themselves to bring to the notice of the competent authority by way of making a comprehensive representation their grievances. We hope and trust that in case a representation is made, the said authority shall consider the same sympathetically and also following the test of fairness and reasonableness as discussed by us in this judgment in para supra."

5. The law being clear on the subject, we are not inclined to interfere in the matter as the same is within the exclusive domain and purview of the employer. However, we leave it open to the petitioner to make a comprehensive representation to respondent No.1 within a week from today highlighting his grievances therein. The respondent No.1, in turn, shall consider and take a conscious decision within a week thereafter.

6. The petition is disposed of in the aforesaid terms, so also the pending application(s), if any.

Authenticated copy be supplied to the parties by the Court Master.