
(2019) 12 J&K CK 0060

In the Jammu And Kashmir High Court

Case No : Service Writ Petition (SWP) No. 2613 Of 2018, IA No. 01 Of 2018

Dr. Meenu Gupta

APPELLANT

Vs

State Of Jammu And Kashmir & Ors

RESPONDENT

Date of Decision : 23-12-2019

Acts Referred:

Citation : (2019) 12 J&K CK 0060

Hon'ble Judges : Tashi Rabstan, J

Bench : Single Bench

Advocate : R.P. Sharma, H.A. Siddiqui

Final Decision : Dismissed

Judgement

Tashi Rabstan, J

1. Through the medium of this petition, the petitioner is seeking to quash Order No.648 dated 18.12.2018 issued by Principal & Dean, Government Medical College, Jammu, whereby the case of petitioner for grant of benefit of the option to get posted in Government Medical College, Jammu and its Associated Hospitals, Jammu has been rejected on the ground that this option is available to those doctors who are on inter cadre deputation basis and not working on tenure post of Registrar/Demonstrator.

2. The facts in short, as averred in the writ petition, are that the petitioner was appointed as Assistant Surgeon/Medical Officer in the Health Department in November, 2001. It is averred that though she was on the cadre strength of the Health Department and was governed by the rules called the Jammu & Kashmir (Gazetted) Service Recruitment Rules, 1970, however, later on she was brought on the cadre strength of the Department of Medical Education and, thus, was governed by the Jammu & Kashmir Medical Education (Gazetted) Service Recruitment Rules, 1979. It is averred that respondent No.2 issued notice dated 25.07.2017 seeking option from doctors who are PSC confirmed and are presently posted to Government Medical College, Jammu and its associated

Hospitals as Assistant Surgeons/Medical Officers on inter-cadre deputation basis to either forego promotion or opt to continue their lien in the Health Service Department with a view to remain placed in the Department of Medical Education, Government Medical College, Jammu on permanent basis. The petitioner in response to said notice submitted her application on 31.07.2017, however, instead of considering her application, respondent No.2 vide Order No.648 dated 18.12.2018 rejected the claim of petitioner on the ground that this option is available to those doctors who are on inter cadre deputation basis and not working on tenure post of Registrars/Demonstrators. Hence, the present petition.

3. Objections have been filed on behalf of respondents averring therein that since the petitioner was appointed as Registrar on a tenure post, she cannot lay any claim for continuation in Government Medical College, Jammu, as she was never posted in Government Medical College, Jammu as Medical officer on inter-cadre deputation basis. It is averred that the notice never intended for absorption of petitioner or any other person appointed as Registrar/Demonstrator in Government Medical College, Jammu, rather the notice clearly indicates that such PSC confirmed doctors who are presently posted to Government Medical College, Jammu and its associated hospitals as Assistant Surgeons/Medical Officers on inter-cadre deputation are hereby notified to exercise one time option whether they intend to stay permanently in the Department of Medical Education, Government Medical College, Jammu or they opt to continue their lien to be in the Health Services, Jammu.

4. I have heard the petitioner as well as learned counsel appearing for respondents and also perused the writ file.

5. Before proceeding further, it would be appropriate to reproduce hereunder the relevant portion of Notice No.GMC/Notice/2017/Asstt. Surgeon/932 dated 25.07.2017:

"The Doctors who are PSC confirmed and are presently posted to Govt. Medical College, Jammu and its Associated Hospitals as Assistant Surgeons/Medical Officers on Inter-Cadre Deputation are hereby notified to exercise one time option whether they intend to stay permanently in the Department of Medical Education, Govt. Medical College, Jammu or they opt to continue their lien to be in the Health Services Department.

In case a Medical Officer wants to stay permanently in Govt. Medical College, Jammu she/she shall have to execute an undertaking duly attested by the 1st Class Magistrate to the effect that he/she will not claim their seniority/lien in their parent department and also will not claim any promotion to the next higher grade/position throughout his/her posting in this institution. ..."

6. As per this notice, only those Assistant Surgeons/Medical Officers were required to exercise one time option who were posted to Government Medical College, Jammu and its associated hospitals on inter-cadre deputation and

intended to stay permanently in the Department of Medical Education.

7. Now it is to be seen whether the petitioner was posted in the Government Medical College on inter-cadre deputation or not.

8. A perusal of the writ petition clearly reveals that the petitioner has nowhere averred in the writ petition that how she came to be posted in the Government Medical College, Jammu nor she has annexed any such order to this effect with the writ petition. However, respondents have annexed copy of Order No.236 of 2014 dated 19.08.2014 issued by the Principal & Dean, Government Medical College, Jammu, whereby sanction was accorded to the engagement of petitioner as Registrar in the Department of E.N.T., Government Medical College, Jammu on tenure basis for a period of three years. Thus, it is clear that the petitioner was posted in the Government Medical College as Registrar on tenure basis and not on inter-cadre deputation basis as Assistant Surgeon/Medical Officer. The notice never intended for absorption of petitioner or any other person appointed as Registrar/Demonstrator in Government Medical College, Jammu. Once the petitioner was appointed as Registrar on tenure post and since the said period has already over, the petitioner cannot lay her claim for continuation or absorption in Government Medical College, Jammu permanently.

9. Viewed thus, I do not find any merit in the writ petition. Accordingly, the same is dismissed along with connected IA. Interim direction shall stand vacated forthwith.