

(2018) 09 J&K CK 0035

In the Jammu And Kashmir High Court

Case No : Letter Petent Appeal No.140 Of 2018

Dr. Salma Parveen @APPELLANT@Hash State of J&K & ors

Date of Decision : 12-09-2018

Acts Referred:

Citation : (2018) 09 J&K CK 0035

Hon'ble Judges : Alok Aradhe, J;Sanjay Kumar Gupta, J

Bench : Division Bench

Final Decision : Disposed Off

Judgement

1. The appeal is admitted for hearing and with the consent of learned counsel for the parties, the same is heard finally.

2. In this intra Court appeal, the appellant has assailed the validity of judgment/order dated 31.08.2018 passed by the learned Single Judge in SWP

No.1765/2018.

3. The facts giving rise to the filing of the instant appeal briefly stated are that the appellant, who is a Dental Surgeon, was posted in Migrant

Dispensary, Muthi (Phase-I), Jammu in the year 2017 and was transferred to CHC Bhaderwah vide order dated 06.10.2017. The aforesaid order was

challenged by the appellant in SWP No.2477/2017, which was disposed of with a direction to the respondents to consider the grievance of the

appellant with regard to her transfer. Thereupon, the respondents considered the representation filed by the petitioner and the same was rejected vide

order dated 24.08.2018. The petitioner challenged the aforesaid order in the writ petition, namely, SWP No.1765/2018 before the learned Single Judge,

however, the said writ petition was dismissed.

4. Learned counsel for the appellant submits that the post against which the appellant was transferred has already been filled up by one Dr. Irshad

Malik, therefore, it is not possible for the petitioner/appellant to comply with the order of transfer dated 06.10.2017. However, the aforesaid aspect of the matter has not been appreciated by the learned Single Judge. It is fairly stated by the learned counsel for the appellant that the appellant is not averse to the order of transfer, as the transfer is an exigency of service. It is further submitted that the respondents be directed to consider the issue of posting of the petitioner/appellant afresh by taking into account the difficulty expressed predate in the writ petition. It is further submitted that the appellant has not been relieved and is still performing her duties at the present place of posting. On the other hand learned Sr.AAG fairly submits that the competent authority would take sympathetic view of the matter and shall pass an appropriate order with regard to posting of the appellant.

5. In view of the aforesaid submissions and taking into account the fact that the post to which the petitioner has been transferred has already been filled up, we deem it appropriate that in case the post to which the appellant has been transferred has already been filled up, the respondents/competent authority by taking into account the difficulty expressed by the appellant shall issue appropriate order of posting of the petitioner/appellant by a speaking order within a period of three weeks from today.

6. Till then, in case the appellant has not been relieved, she shall be allowed to continue at the present place of posting.

7. To the aforesaid extent, the order passed by the learned Single Judge dated 31.08.2018 passed in SWP No.1765/2018 is modified. Accordingly, the appeal is disposed of.