
(2012) 02 CHH CK 0013
In the Chhattisgarh High Court
Case No : Writ Petition S No. 774 of 2012

Dr. Smt. Ansuiya Dutt

APPELLANT

Vs

State of Chhattisgarh and Others

RESPONDENT

Date of Decision : 21-02-2012

Acts Referred:

Citation : (2012) 02 CHH CK 0013

Hon'ble Judges : Satish K. Agnihotri, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Satish K Agnihotri, J.—Challenge in this petition is to the order dated 08.02.2012 (Annexure P/8) whereby the petitioner, working as Assistant Professor (Ophthalmic Department) at Pt. J.N. Memorial Medical College, Raipur, has been relieved to join at Dr. B.R. Ambedkar Memorial Hospital, Raipur. Further, the petitioner seeks a declaration that the order dated 15.11.2012 (Annexure P/3) to be operative only for the Government Medical College, Bilaspur and Jagdalpur.

2. The facts, in brief, as projected by the petitioner are that the petitioner is posted as Assistant Professor (Ophthalmic Department) in the respondent No.3/ Medical College. An audit was conducted in Chhattisgarh Institute of Medical Sciences, Bilaspur, wherein it was found that 21 Doctors were appointed on deputation basis, who were not included in the set up as well as they were not fulfilling the norms of Indian Medical Association. Thus, they were to be relieved from the duties as per order dated 15.11.2011 (Annexure P/3). Thereafter, the petitioner was issued a memo dated 06.01.2012 (Annexure P/5) stating that since her services has been transferred under the Superintendent, Hospitals, therefore, she should report to the Joint Director & Superintendent, Dr. B.R. Ambedkar Memorial Hospital, Raipur. Later on, on a representation being made by the Chhattisgarh State Government Doctor Association, on 10.01.2012 (Annexure P/7), the memo dated 06.01.2012 was cancelled until further orders. Thereafter, the impugned order dated 08.02.2012 (Annexure P/8) was issued

transferring the services of the petitioner to Dr. B.R. Ambedkar Memorial Hospital, Raipur.

3. The only argument of learned counsel appearing for the petitioner is that the order dated 15.11.2011 (Annexure P/3) relates only to Medical College, Bilaspur and Jagdalpur. It does not concern with Raipur. Thus, the transfer of the petitioner from her present place of posting on the basis of the aforesaid order, is erroneous. Shri Thakur further submits that the Dean of the respondent No. 3 has no competence to transfer the petitioner, when she was posted there by the order of the Secretary, Health & Family Welfare Department.

4. On the other hand, Shri Sao, learned Government Advocate appearing for the State/respondents submits that in fact, it is not a transfer but mere change in the place of posting as both the institutions i.e. Pt. J.N. Memorial Medical College, Raipur and Dr. B.R. Ambedkar Memorial Hospital, are in the Raipur city itself. So far as competence of the authority passing the impugned order is concerned, the same is based on the order passed by the Under Secretary, Health & Family Welfare Department, Raipur, and a copy of the impugned order has also been endorsed to the Secretary, Health & Family Welfare Department, Government of Chhattisgarh, Raipur.

5. I have heard learned counsel appearing for the parties, perused the pleadings and documents appended thereto.

6. Indisputably, the petitioner was posted in Medical College, Raipur (Ophthalmic Department) on the post of Assistant Professor, on deputation maintaining her lien in Dr. B.R. Ambedkar Memorial Hospital under the Directorate, Health Services as Medical Officer (Ophthalmology) vide order dated 08.04.2008 (Annexure P/1). The State Government, by memo dated 15.11.2011 (Annexure P/3) took a decision that all the Medical Officers and Surgeons working in the Medical Colleges would be under the administrative control of the Superintendent, Hospitals. Certain specific directions were issued in respect of Chhattisgarh Institute of Medical Sciences, Bilaspur and Medical College, Jagdalpur. However, no direction was passed in respect of Medical College, Raipur.

7. On perusal of the order dated 06.01.2012 (Annexure P/5), it appears that there was an order passed by the Deputy Director and Superintendent, Hospitals, dated 19.12.2011. The order dated 06.01.2012 (Annexure P/7) was cancelled thereafter on 10.01.2012 (Annexure P/7). By the impugned order dated 08.02.2012 (Annexure P/8), the petitioner was posted in the original hospital, from where she was sent to Medical College, Raipur on deputation vide order dated 08.04.2008. The petitioner has already completed more than two years. The impugned order was passed on 08.02.2012 (Annexure P/8) repatriating back the petitioner to join to her parent department. Thus, it cannot be held that the petitioner was relieved from deputation post by the Dean, Medical College, without competence. It is a simple case of repatriation to the parent department on cancellation of deputation wherein the competent officer is the Dean for

relieving the employee who had joined the Medical College, on deputation. There is no infirmity or illegality in the impugned order.

8. The petitioner has not challenged the impugned transfer order on any other permissible legal ground i.e. malafide or violation of any statutory rules or regulations. The impugned order was passed pursuant to the decisions taken by the State Government on 15.11.2011 (Annexure P/3). Thus, there appears no infirmity or irregularity in the impugned order. Even by the impugned order, there will be no change in the place of residence of the petitioner as both the institutions are in the Raipur city itself.

9. Even otherwise, it is well-settled that transfer is an incidence of service and it is for the employer to decide as to where a particular officer/employee be posted, keeping in view public interest as well as administrative exigency. This Court has limited jurisdiction to interfere with the transfer matter except in the cases of proved mala fide, noncompetence of authority passing the transfer order and not being in conformity with the rules and regulations. The petitioner/employee cannot be permitted to remain at one place forever. Under the provisions of service rules, employer has all the powers to post an employee at a particular place in view of public interest and administrative exigency. (See E.P. Royappa v. State of Tamil Nadu and another¹, Union of India and another v. Janardhan Debanath & another², State of M.P. and another v. S.S. Kourav and others³ and Mohd. Masood Ahmad v. State of U.P. & Others).

10. In view of the above, the petition is devoid of merit and is accordingly dismissed.