

(2020) 09 SHI CK 0269

In the High Court Of Himachal Pradesh

Case No : Civil Writ Petition No. 1205 Of 2020

Dr. Vimal Pankaj

APPELLANT

Vs

State Of Himachal Pradesh And Others

RESPONDENT

Date of Decision : 18-09-2020

Acts Referred:

Citation : (2020) 09 SHI CK 0269

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

Bench : Division Bench

Advocate : S.K. Banyal, Ajay Vaidya

Final Decision : Dismissed

Judgement

Jyotsna Rewal Dua, J

1. Petitioner, a Medical Officer, seeks to challenge his transfer from Mobile Health Team, Ratti, District Mandi to Karsog, District Mandi, H.P.

2. Rashtriya Bal Swasthya Karyakram (in short RBSK) is a flagship scheme of Government of India and the State Government for improving child health across the State. The programme aims to screen all children from birth till 18 years enrolled at Anganwadi Centres as well as in schools for developmental delays, birth defects, deficiencies and diseases. For carrying out screening of the children, dedicated Mobile Health Teams (MHTs) were constituted by the respondents in every block of the State in the year 2016. Each team comprised of two BAMS (AYUSH) doctors (one male and one female), one Pharmacist and one Female Health Worker.

3. Petitioner was selected as Medical Officer (AYUSH) for MHT in Block Bagsaid of District Mandi, H.P. He was appointed on 04.04.2016 on contract basis. Vide Office Order, dated 29.10.2016, he was posted in Ratti Block, District Mandi, H.P. against vacancy.

4. Since many of MHTs were found to be running short of crucial team members

due to resignations and various other human resource issues, therefore, the respondents on 14.11.2019 issued a rationalization order for effective deployment of MHTs. Under this order, petitioner was also transferred from Ratti, Mandi to Karsog, Mandi.

5. Various writ petitions were preferred in this Court against the rationalization order dated 14.11.2019 with lead case CWP No. 3559 of 2019. These writ petitions were disposed of vide judgment dated 26.11.2019, the operative part of which runs as under :-

"8. 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 loose 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."

6. Petitioner also preferred his independent writ petition being CWP No. 4006 of 2019, which was disposed of on 05.12.2019 in terms of the judgment rendered in CWP No. 3559 of 2019. The representations preferred by aggrieved persons

against their transfers in terms of rationalization order dated 14.11.2019 were decided by the respondents vide order dated 11.12.2019. The representation of the petitioner for his retention at Ratti, Mandi was also considered in this very order, however, there being no vacancy at this place, petitioner was directed to join his duties at Karsog, District Mandi, H.P. It appears that the petitioner again preferred a representation in terms of judgment dated 5.12.2019 rendered in his writ petition No. 4006 of 2019. Petitioner's representation was already rejected by the respondents vide order dated 11.12.2019, also there being no vacancy at Ratti and coupled with fact of there being no necessity of retention of 3rd MHT at Ratti, petitioner's request was declined. Aggrieved, instant writ petition has been preferred by him praying for his retention at Ratti, Mandi.

7. Record shows that petitioner was appointed as Medical Officer (AYUSH) in Rashtriya Bal Swasthya Karyakram of Government of India and the State Government. He is a part of Mobile Health Team (MHT), constituted by the respondents for carrying out the object of the RBSK Programme. Petitioner was appointed as such on 04.04.2016 in Block Baksaid. Since a vacancy thereafter occurred in MHT, Block Ratti, Mandi, therefore, he was transferred there vide order dated 29.10.2016. Respondents undertook rationalization for effective development of MHTs vide order dated 14.11.2019. As a result thereof petitioner was transferred from Ratti, Mandi to Karsog, Mandi, H.P. While adjudicating CWP No. 3559 of 2019 and companion matters, this Court has already upheld the rationalization of MHTs where work was finished or was on lesser side but number of MHTs was proportionately on higher side to deploy such teams in those areas where work is still in progress or on higher side. Repeated representations of the petitioner against his transfer from Ratti to Karsog under rationalization order have been rejected by the respondents vide speaking orders. The reasons given for rejection of his representations are :- (i) the achievement of screening of children of MHT Block Ratti is 21% (6 weeks to 3 years), 11% (3 years to 6 years) and 41% (6 years to 18 years) ; (ii) the average children screened by MHTs daily ranged between 40-50 against the target of 100-120, meaning thereby retention of 3rd team was not beneficial, rather was uneconomic and (iii) as per guideline of RBSK programme, each vehicle should cover a mileage of 2000 K.m. per month and is paid Rs. 38,000/- per month, but most of the vehicles in Ratti Block are covering 1000-1200 K.m. per month causing financial loss to the State Exchequer.

It is also evident from the record that it was not just the petitioner, who was transferred/adjusted on account rationalization of MHTs, but various other members/doctors of MHTs were also transferred/adjusted against vacancies in other blocks/districts/MHTs under the uniform decision of rationalization of MHTs in larger public interest.

In view of the above factual position, we find no merit in this writ petition praying for continuation of the petitioner at Ratti, Mandi, and the same is accordingly dismissed. The pending miscellaneous applications, if any, also stand

disposed of.