

(2019) 11 J&K CK 0028

In the Jammu And Kashmir High Court

Case No : Writ Petition (C) No. 4214 Of 2019, CM No. 8761 Of 2019

Kusam Katoch

APPELLANT

Vs

Union Territory Of Jammu And Kashmir And Others

RESPONDENT

Date of Decision : 22-11-2019

Acts Referred:

Citation : (2019) 11 J&K CK 0028

Hon'ble Judges : Tashi Rabstan, J

Bench : Single Bench

Advocate : Aseem Sawhney

Final Decision : Disposed Of

Judgement

Tashi Rabstan, J

1. Notice. Mr. Aseem Sawhney, learned AAG accepts notice on behalf of the respondents.

2. It is submitted that in terms of medical certificate dated 03.07.2014 issued by Chairman, Medical Board, Government Medical College, Jammu, the petitioner was advised to avoid long travelling and prolonged standing/walking. Another medical certificate issued by the same Board dated 29.01.2016 by virtue of which the petitioner was again advised to avoid bending, lifting, prolonged standing and long distance travel. It is further submitted that on the basis of Medical Board opinion, in terms of order dated 02.04.2016 the Commissioner/ Secretary to Government, School Education Department has attached the petitioner from G.P School, Ward No.3, Samba to Counseling Cell in the office of Director School Education, Jammu.

3. Petitioner has challenged impugned relieving order dated 11.11.2019 issued by respondent No.2, Director, School Education, Jammu by virtue of which she has been transferred from Counseling Cell in the office of respondent No.2 to G.P School, Ward No. 3, Samba. Petitioner present in person before the Court

submits that she cannot travel to Samba due to medical ailments and as such the respondents may be directed to post her at a place nearer to her residence, at Jammu. Her statement is taken on record.

4. Once the relieving order has been issued by the respondent No.2 in the interest of administration and exigency of service, the petitioner cannot challenge his transfer/relieving order. Even otherwise, the petitioner is a Teacher and is required to be posted at a School to teach the students. However, in view of opinion of Medical Board, without interfering with the impugned relieving order dated 11.11.2019, this petition is disposed of, with a direction to respondent No.2 to refer the petitioner to the Government Medical College, Jammu for fresh medical examination before the Medical Board by 29.11.2019. The Medical Board shall give its opinion by or before 07.12.2019. Till 07.12.2019, the petitioner shall be allowed to mark her attendance in the office of respondent No.2 Director, School Education, Jammu. On the basis of Medical Board opinion, the respondent No.2 shall pass fresh consideration order by transferring the petitioner at a place nearer to her residence. The consideration order shall be passed strictly in terms of findings of the Medical Board. However, it is made clear that this order shall not be treated as precedent for other similarly situated persons.

5. Disposed of as above along with connected CM.