

(2019) 02 J&K CK 0009

In the Jammu And Kashmir High Court

Case No : Service Writ Petition (SWP) No. 127, 171 Of 2019, IA No. 01 Of 2019

Mtr. Shamshada Akhtar

APPELLANT

Vs

State Of Jammu & Kashmir & Ors

RESPONDENT

Date of Decision : 04-02-2019

Acts Referred:

Constitution Of Jammu And Kashmir, 1956 — Section 103

Citation : (2019) 02 J&K CK 0009

Hon'ble Judges : Ali Mohammad Magrey, J

Bench : Single Bench

Advocate : I. Sofi, Irfan Andleeb, M. A. Wani

Final Decision : Disposed Off

Judgement

1. In this petition, filed under Section 103 of the Constitution of the State of Jammu & Kashmir, the petitioner has assailed the validity of order No. 89-SMD of 2019 dated 25th of January, 2019, issued by the respondent No.2, insofar as it directs the petitioner to report to the office of respondent No.3 for further duties.

2. The background facts, leading to the filing of the instant petition, are that the petitioner, in terms of order No. 69 SMID of 2019 dated 21st of January, 2019, came to be transferred from ICDS Project, Iddgah and posted in ICDS Project, Kunzer. Aggrieved thereby, the petitioner approached this Court by medium of a writ petition, being SWP No. 127/2019, wherein he challenged the said order of his transfer, besides other grounds, on the ground that the son of the petitioner is suffering from mental disability and, therefore, requires immediate care of her mother, i.e. the petitioner herein. It was further submitted by the petitioner that her son stands admitted in the Sher-i-Kashmir Institute of Medical Sciences, Soura, in the first week of January, 2019. In the said writ petition, the petitioner also averred that since she is left with only six months of service before reaching the age of superannuation, as such, her transfer, at this fag end of her service carrier, would be detrimental to her rights and interests. In the said writ petition, this Court, in terms of order dated 29th of January, 2019, in view of the nature

of submissions made by the learned counsel for the petitioner, had directed the respondents to consider the matter and take a decision with regard to the contentions raised by the petitioner. It was also directed by this Court that till such time a decision with reference to the case of the petitioner is taken by the respondents, the order dated 21 st of January, 2019, insofar as it related to the petitioner shall not be given effect.

3. In pursuance of the directions of this Court, the respondents have, now, in terms of order dated 25th of January, 2019, that is impugned herein this petition, transferred Shri Ab. Rashid Dhar, I/c CDPO, awaiting orders of his posting, as I/c CDPO, Kunzer, in place of the petitioner with a further stipulation that the petitioner shall report to Deputy Director, ICDS, Kashmir, for further duties.

4. Seemingly, the grievance of the petitioner with reference to her continuation in her home town, i.e. Srinagar, for the purpose of attending her ailing son and for preparing her pensionary papers has been redressed and she has been directed to report to the office of the Deputy Director, ICDS, Kashmir, for further duties.

5. Mr Sofi, the learned counsel for the petitioner, when asked, submits that there is every apprehension that the petitioner may be, again, transferred to some place other than her home town Srinagar.

6. Mr Irfan Andleeb, the learned Dy. AG, when asked, submits that in compliance of the earlier order of this Court, passed in SWP No. 127/2019, the grievance of the petitioner has been redressed and she has been directed to perform her duties in the office of Deputy Director, ICDS, Kashmir. The learned Dy. AG further submits that the respondents shall not issue any further transfer order of the petitioner, except for meeting the eventuality of requirement/ exigency in service.

7. In the above background, this writ petition shall stand disposed of as settled in view of the issuance of the subsequent order dated 25th of January, 2019, on the part of the respondents, whereby the grievance of the petitioner has been redressed. It is, however, made clear that in case exigency so demands, the respondents shall be free to make posting of the petitioner as per their requirement keeping in view the ailing health condition of the son of the petitioner as also the fact that the petitioner is scheduled to attain the age of superannuation in near future.

8. Writ petition disposed of as above, alongwith all connected IA(s).

SWP No. 127/2019: IA No. 01/2019:

Mr I. Sofi, Advocate for the petitioner.

Mr Irfan Andleeb, Dy. AG for respondent Nos. 1 to 4.

Mr M. A. Wani, Advocate for respondent No.5.

9. In view of the order passed in SWP No. 171/2019, this writ petition has become infructuous, as a sequel thereto, same shall stand disposed of as such, alongwith all connected IA(s).

10. Registry to place a copy of this order on each file.