
(2014) 12 SHI CK 0066
In the High Court Of Himachal Pradesh
Case No : CWP No. 6716 of 2014

Saruchi Sharma

APPELLANT

Vs

State of H.P.

RESPONDENT

Date of Decision : 09-12-2014

Acts Referred:

Citation : (2014) 12 SHI CK 0066

Hon'ble Judges : Mansoor Ahmad Mir, C.J.; Tarlok Singh Chauhan, J

Bench : Division Bench

Advocate : Ranjana Parmar, Advocate for the Appellant; Shrawan Dogra, Advocate General, Romesh Verma, Anup Rattan, Additional Advocate Generals, J.K. Verma, Deputy Advocate General and Ashok Sharma, Assistant Solicitor General of India, Advocate for the Respondent

Judgement

Mansoor Ahmad Mir, C.J.—By the medium of present Writ Petition, the petitioner has sought writ of mandamus commanding the respondents to allow the petitioner to discharge the duties of Demonstrator in the specialty of Biochemistry in Dr. Rajender Parsad Government Medical College, Tanda (for short, Medical College, Tanda) till the said post is filled up on regular basis or for a period of six months; and also sought issuance of writ of certiorari for quashing the order, dated 6th September, 2014, whereby the petitioner has been relieved on completion of her tenure, on the grounds taken in the memo of writ petition.

2. Facts, as pleaded in the writ petition, are that the petitioner is having the degree of M.Sc. (Biochemistry) and being eligible, applied for the post of Demonstrator in the specialty of Biochemistry, was appointed as such on tenure basis for a period of three years in the Medical College, Tanda on the recommendations made by the Selection Committee. The said period of three years came to an end on 6th September, 2014. Thereafter, the petitioner sought extension and the Head of Department, on 27th August, 2014, recommended her case for extension for a period of six months. However, despite the fact that the competent Authority granted extension for six months, vide office order, dated

6th September, 2014, (Annexure P-6), the petitioner was relieved from the post of Demonstrator vide order, dated 6th September, 2014, (Annexure P-7).

3. Respondents No. 1 to 3 have filed the reply and pleaded that the post of Senior Resident (Demonstrator) was a tenure post and was filled up for a period of three years and the incumbent was to be appointed/selected by the Selection Committee as per the policy framed by the Government, vide notification No. HFW-B(A)2-4/2007, dated 4.1.2012, (Annexure R-1). It is further pleaded that as per the said policy, the post in issue is not a regular post and petitioner cannot claim continuation for the reason that it is a tenure post only for a period of three years and after three years, new selection process has to be undergone and fresh recruitment is to be made. It is also pleaded that the said policy has now been amended vide notification dated 26th September, 2012, (Annexure R-2), as per which the Principal of the concerned Medical College is the Selection Authority and the selection has to be made on the basis of walk-in-interview. Further, it is contended that Dr. J.S. Chahal, in-service General Duty Officer (GDO), has been appointed as Senior Resident (Demonstrator) in the Department of Biochemistry and is in position and no post is available.

4. Thus, from the above, it is clear that the post in question is a tenure post and not a cadre post. The petitioner has no right to claim extension against a tenure post, which was filled up as per the policy in vogue at the relevant time, only for a period of three years, read with the fact that the new incumbent has joined and is in position.

5. Having said so, no case is made out, hence the writ petition is dismissed, so also the pending application(s), if any.