
(2019) 10 J&K CK 0038

In the Jammu And Kashmir High Court

Case No : Writ Petition (C) No. 3793 Of 2019, CM No. 7879 Of 2019

Shahida Parveen

APPELLANT

Vs

State Of Jammu & Kashmir And Others

RESPONDENT

Date of Decision : 25-10-2019

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2019) 10 J&K CK 0038

Hon'ble Judges : Tashi Rabstan, J

Bench : Single Bench

Advocate : Amit Gupta, Aseem Sawhney

Final Decision : Disposed Of

Judgement

Tashi Rabstan, J

1. Through the medium of this petition, the petitioner is seeking direction to the respondents not to relieve her from her present place of posting and she may be allowed to work in Sub- Centre Chaktroo pursuant to order dated 28.10.2011 on the grounds taken in the writ petition.

2. The case as projected by the petitioner in this petition is that vide Order No. DHS-J/ES-4/143/4461 dated 16.08.2011, the petitioner was transferred from Primary Health Centre, Mari to Sub-Centre Bagga. Being aggrieved of said order, she filed SWP No. 2089/2011 which came to be finally disposed of vide order dated 15.10.2011 with a direction to the respondents to accord consideration to the petitioner's case having due regard to the annexures appended to the petition and impugned order was stayed till the decision is taken by the respondents. In compliance to order dated 15.10.201, the respondents have passed Order No. DHSJ/EST-4/6319-21 dated 28.10.2011 by virtue of which the petitioner was directed to work at Sub-Centre Chaktroo Block Mandi, Distt. Poonch on health grounds.

3. Learned counsel for the petitioner contends that respondent No.6 without any

order of transfer directed the petitioner to relieve from Sub Centre Chaktroo Block Mandi and asked her to go to Reasi district for further posting. The grounds urged in the petition are that the petitioner as also her minor son are seriously indisposed and direction to the petitioner to relieve her from present place of posting is likely to expose the petitioner and his son to risk harassment and inconvenience. It is contended that the petitioner has undergone two major surgeries and her son is mentally retarded child, who needs twenty four hours care and for that the petitioner is required to be available at her residence to arrange medical treatment for her minor son. She has also placed medical record of her as also that of her minor son with the writ petition.

4. Ordinarily the High Court does not interfere in transfer matters under Article 226 of the Constitution of India if the same are made in the interest of administration and in exigency of service and as long as they are not clearly illegal or made in violation of any mandatory statutory rule. However, the authority empowered to effect transfer, is expected to give due regard to the inconvenience, if any, with which the employee may be visited in the event, he/she is transferred away from his/her residence.

5. In the said backgrounds, I deem it proper to dispose of this writ petition with a direction to the petitioner to file a detailed representation before the respondent No.5 by or before 30.10.2019 and if such representation is filed, in that eventuality, the respondent No.5 is directed to accord consideration to the petitioner's case strictly in terms of the rules occupying the field and having regard to the medical records by or before 04.11.2019. Till 04.11.2019, the petitioner shall be allowed to continue at her present place of posting, i.e., Sub-Centre Chaktroo, Block Mandi.

5. Disposed of along with connected CM(s).