
(2001) 02 DEL CK 0048
In the Delhi High Court
Case No : Cw. No. 3233/82

Smt. Pushpa Sachdeva

APPELLANT

Vs

Shri D.K. Roy and Another

RESPONDENT

Date of Decision : 07-02-2001

Acts Referred:

Citation : (2001) 3 AD 740 : (2001) 90 DLT 376 : (2001) 90 FLR 426

Hon'ble Judges : Mukul Mudgal, J

Bench : Single Bench

Judgement

Mukul Mudgal, J.—There is no appearance for any of the parties.

2. There was no appearance on 8.1.2001 also. Accordingly the matter is taken up for hearing.

3. The facts of the case have been stated succinctly and felicitously in the interim order of this Court dated 25th November, 1982 passed by Mr. Justice Avadh Behari (as he then was) which reads as follows:

"The petitioner Mrs. Pushpa Sachdeva is a Nurse in the W.U.S. Health centre of the University of Delhi. She was appointed in 1964. The Centre was working in the morning hours between 8.30 a.m. to 1.30 p.m., to begin with. In 1968 the hours of work were extended. The Centre worked between 1.30 to 6.30 p.m. as well. Due to exigencies of work the Centre has now started working in the night also. This was begun from 18.2.1981. The night hours of work are from 8.30 p.m. to 6.30 a.m. The petitioner's case is that she was working during the day shift previously. Now she is being assigned duty at night from 8.30 p.m. to 6.30 a.m. sometimes. To this she objects. She has brought this petition challenging this assignment of night work to her. She has asked for a stay of the operation of the order requiring her to work at night.

There are other Nurses also in the Centre. They have lodged a protest with the Chief Medical Officer, Respondent No.1, that all Nurses should be treated alike

and if they are required to work in the night, the petitioner should also be asked to work in the night in rotation. They claim uniform assignment of work. They threaten to go on strike. The petitioner, on the other hand, says that she cannot be required to work during night hours as this is a condition of her services that she will not work at night.

In her letter of appointment dated 23.1.1964 issued by the University of Delhi, Respondent No.1, it is said that "in all matters relating to leave and other conditions of service you will be governed by rules in force in the University from time to time."(P-2). The University mainly relies on this and says that there is no condition of service that she cannot be assigned work during the night hours. There is a protest also from other nurses who insist that there should be a uniform treatment and fair play so that all the nurses are treated alike.

The question is whether the petitioner has a legal right which has been infringed and of which she can complain to the court. As at present advised I do not think she has any legal right. Nor is there any such condition of service which prohibits the Chief Medical Officer from assigning work during night hours to the petitioner. She can be asked to work according to rotational duties at night time also. The Chief Medical Officer can assign night work to her.

The stay order dated 9.9.82 is discharged."

4. Thus the petitioner has sought to rely upon her Conditions of Service which according to the petitioner postulated that she would not be required to work at night. In the above letter of appointment dated 23rd January, 1964, issued by University of Delhi-respondent No.1, it is said that "in all matters relating to leave and other conditions of service you will be governed by rules in force in the University from time to time."

5. The above conditions of service in my view clearly support the view of the University that there is no bar on the prescription of night hours for working to the petitioner. It must be remembered that the petitioner is working as a Nurse and a Nurse can be required in the very exigencies of things to work in the night hours. It is not in dispute that at the time when the petitioner had started working from 1964, working hours were from 8.30 AM to 1.30 AM in 1964 and thereafter in 1968 working hours were extended from 1.30 AM to 6.30 PM and in 1991, the night hours of work were extended from 8.30 PM to 6.30 AM. The same working hours started operating in the W.U.S. Health Centre of the University of Delhi where the petitioner works.

6. Accordingly I am of the view that the reliance by the petitioner on her "Conditions of Service" dated 23rd of January, 1964 is unjustified and the writ petition has no merits and is accordingly dismissed. There shall be no order as to costs.