

(2018) 03 RAJ CK 0138
In the Rajasthan High Court
Case No : Civil Writ Petition No. 8361 of 2017

Smt. Sharda Vishnoi @APPELLANT@Hash National Law University

Date of Decision : 06-03-2018

Acts Referred:

Citation : (2018) 03 RAJ CK 0138

Hon'ble Judges : DR. PUSHPENDRA SINGH BHATI, J

Bench : Single Bench

Advocate : Falgun Buch, Rajvendra Saraswat

Final Decision : Dismissed

Judgement

1. Petitioner has preferred this writ petition with the following prayer :-

â??i. By an appropriate writ order or direction, the termination order dated 11.07.2017 passed by the Respondents may kindly be declared illegal and

the same may kindly be quashed and set aside.

i-a. By an appropriate writ order or direction, the order dated 20.07.2017 passed by the respondents University may kindly be declared stigmatic,

illegal and the same may be quashed and set aside.

ii. By an appropriate writ order or direction, the Respondent University may kindly be directed to consider the candidature of the humble petitioner for

grant of regular pay-scale and all other benefits available to any permanent employee of the university.

iii. Any other appropriate order, which deemed fit in the facts and circumstances of the case may kindly be passed in favour of the petitioner-

defendant.â??

2. Learned counsel for the petitioner states that the petitioner applied for the post of Nurse at the Medical Center of the respondent and was given

appointment on 09.07.2015. The term of the contract was extended for one year on 23.07.2016. Learned counsel for the petitioner has pointed out that

the service regulations of respondent University which provides for consideration for regular pay-scale after completion of two successive one year

terms of contract.

3. Learned counsel for the petitioner has further drawn attention of this Court to Para no.10 of the writ petition, which reads as follows :-

“That in and around June, 2017, the petitioner came to know that the Respondent University has come out with an advertisement of recruitment of

Nurse at the Medical Centre. While inquiring further with regards to the advertisement, she also came to know that the interviews for the above said

post were to be conducted on 08.07.2017 at the university campus. The petitioner was under bona fide impression that the said recruitment would be

done for extending the services of the petitioner and similarly situated other male and female nurses and to consider them for the grant of regular pay-

scale as provided under the services regulations. Thus, with the hope of getting herself considered for the grant of regular pay scale, she has also

applied for the above said recruitment.”

4. Learned counsel for the petitioner has further argued that the complaints and the action by the respondents was not in the right taste as no

opportunity was ever given to her to show any kind of dissatisfaction on the part of the respondents to the functioning of the petitioner.

5. Learned counsel for the respondent has from page 104 of the petition pointed out that the application and consideration of the petitioner in lieu of an

advertisement dated 28.05.2017 whereby the persons were called for the same post for contractual appointment. Learned counsel for the respondent

has further submitted that the petitioner herself has admitted in para no.10 to apply in the same selection process and expected herself to be appointed

and regularized. The contractual appointment of the petitioner was to be upon the satisfaction of the respondents and the non-extension of the contract

with a petition was on account of fresh selection process.

6. After hearing counsel for the parties and perusing the record of the case, this Court finds that if the petitioner herself has applied for the fresh

selection process for the post of Nurse at the Medical Center in pursuance of the advertisement in Rajasthan Patrika on 28.05.2017 then she has

acquiesced her right to challenge the same selection process. This Court also finds that once the petitioner herself has participated in the selection process for the contractual appointment on the post of Nurse at the Medical Center then it was not open for her to have gone back and challenge the advertisement or the appointment which has been made thereafter on the ground that she had a right to not to be replaced by a contractual appointment. Therefore, no indulgence in the present petition can be granted and the same is dismissed.

7. It is made clear that since no opportunity of hearing has been given by the respondents, therefore, no stigma shall be carried forward by the respondent for any future consideration of the petitioner which shall be made strictly in accordance with law as per her merit. It shall be open for the petitioner to apply for the said post as and when such appointment is required to be made by the respondents which shall be considered strictly in accordance with law.