

(2002) 08 AHC CK 0140
In the Allahabad High Court
Case No : C.M.W.P. No. 19686 of 1989

Smt. Susheela Pal

APPELLANT

Vs

Chief Medical Officer and Another

RESPONDENT

Date of Decision : 02-08-2002

Acts Referred:

Citation : (2002) 4 AWC 3147 : (2002) 95 FLR 72 : (2002) 3 UPLBEC 2794

Hon'ble Judges : Rakesh Tiwari, J

Bench : Single Bench

Advocate : Kaushlendra Yadav, V.K. Nagaich, R.L. Yadav, R.N. Bhalla and S.K. Pal, for the Appellant;

Final Decision : Dismissed

Judgement

Rakesh Tiwari, J. 1. By means of this writ petition, the petitioner has prayed for quashing of the impugned order of termination as contained in Annexure-4 to the writ petition and for issuance of a writ of mandamus directing the respondents to pay her salary with arrears.

2. The brief facts of the case are that the petitioner was appointed as Basic Health worker by the Chief Medical Officer, Mainpuri, on 9.1.1985. Her appointment was temporary. The learned counsel for the petitioner submits that so far as relief No. 2 regarding payment of arrears of salary is concerned, the same have already been paid to the petitioner. Thus, the relief in this writ petition is now confined to only prayer of quashing of the impugned order of termination as contained in Annexure-4 to the writ petition. A perusal of Annexure-4 shows that the services of the petitioner were terminated under the U. P. Temporary Government Employees (Termination of Service) Rules, 1975.

3. Learned counsel for the petitioner has drawn the attention of this Court towards para 13 of the writ petition and paras 4 and 5 of the supplementary-affidavit in which it has been stated that several juniors to the petitioner are still working as Basic Health Workers. The names of the eight persons who are said

to be juniors to the petitioner and whose services have not been terminated from the post of Basic Health Worker, Mainpuri, have been given in para 4 of the supplementary-affidavit.

4. There is no material before this Court to come to the conclusion that the aforesaid eight persons who are juniors to the petitioner are still working, as there is nothing on record of the writ petition to indicate their dates of appointments whether they are in the same category, etc. The averments made in para 13 of the writ petition and paras 4 and 5 of the supplementary-affidavit are wholly vague in this respect and it cannot be gainsaid that the eight persons are juniors to the petitioner and are continuing in employment. It will not be proper for this Court to go in a fact finding inquiry/adjudication of disputes under Article 226 of the Constitution of India.

5. The standing counsel contends that the petitioner remained absent from duties from 9.1.1985 to 30.6.1989 without any leave and information and as such, the respondents had no option but to terminate the services of the petitioner as termination simpliciter under the aforesaid rules, without any stigma. No other point has been argued before me by the learned counsel for the petitioner.

6. No illegality could be shown by the learned counsel for the petitioner in the impugned order. It is not a fit case for exercise of powers under Article 226 of the Constitution of India in view of the facts stated above. The writ petition fails and is dismissed.

7. No order as to costs.