
(2009) 05 AHC CK 0085
In the Allahabad High Court

Smt. Sushila Devi	Vs	APPELLANT
State of U.P. and Others		RESPONDENT

Date of Decision : 05-05-2009

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2009) 3 AWC 2464 : (2009) 121 FLR 1123 : (2009) 2 UPLBEC 1852

Hon'ble Judges : Rakesh Tiwari, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Rakesh Tiwari, J.—Heard counsel for the parties.

2. The petitioner was promoted to the post of Assistant Matron in District Women Hospital, Deoria in 1999 and is working as such since then. She has challenged the order dated 2.3.2009 passed by Director General Medical Evam Health Services, U.P. Lucknow, by which she has been suspended pending disciplinary proceedings on the ground of negligence in duties and bad behaviour with patients. She is alleged to have dropped a newly born baby into bucket during delivery period resulting into death of that baby. The action of disciplinary enquiry has emanated from the complaint made by father of the child.

3. Shri G. K. Singh, counsel for petitioner has urged that in the impugned order the petitioner has been shown as staff nurse and therefore the order is bad. According to him, it indicates that the authorities were not aware of the fact that petitioner has been promoted to the post of Assistant Matron and her duty is only to assign duties to the staff nurses and look after administrative work in the women hospital.

4. He has also relied upon report of the doctor according to which child born was already dead as well as duty chart appended as Annexure-3 to show that petitioner was not on duty at the time of delivery of aforesaid child.

5. No doubt the petitioner has been promoted as Assistant Matron but it appears that by some inadvertence her designation has been shown as staff nurse in the order though her name is correctly written therein. It is not unknown in medical world that whenever necessity arises or circumstances so demand, even those who are not on duty are requested for and they actually attend the patients to save their life. Admittedly, the petitioner was Assistant Matron, a more experienced person in her work than the staff nurses under her, therefore, upon the request made in that regard, the possibility of her being present at the time of delivery cannot be ruled out on the basis of duty chart appended by her. As regards report of the doctor that child born was dead is concerned, it may be that doctor is protecting his staff or not but this fact has to be determined by a fact finding enquiry on the basis of evidence, i.e., whether the child born was alive or dead when fell from the hands of the petitioner in the bucket.

6. Suspension is no punishment but temporary deprivation of office pending enquiry into the charges against the delinquent employee. The petitioner will get full opportunity to defend herself in the enquiry where she can take all grounds and pleas as taken in this petition.

7. No case for interference in extraordinary jurisdiction under Article 226 of the Constitution is made out.

8. However, considering the facts and circumstances of the case, it is directed that disciplinary enquiry against the petitioner be concluded expeditiously within a period of three months from the date of receipt of a certified copy of this order.

9. The writ petition stands dismissed with the above observation. No order as to costs.