

(2013) 01 SHI CK 0098
In the High Court Of Himachal Pradesh
Case No : CWP No. 7757 of 2012-F

Swatanter Mahindroo

APPELLANT

Vs

State of Himachal Pradesh

RESPONDENT

Date of Decision : 03-01-2013

Acts Referred:

Citation : (2013) 01 SHI CK 0098

Hon'ble Judges : Sanjay Karol, J;Deepak Gupta, J

Bench : Division Bench

Advocate : Jyotsna Rewal Dua, for the Appellant; Vivek Singh Thakur, A.A.G. and Mr. Rajesh Mandhotra, Dy. Advocate General, and Mr. G.S. Rathour, Advocate, for the Respondent

Judgement

Sanjay Karol, J.—Present petitioner Swatanter Mahindroo, has assailed the order dated 3.9.2012 (Annexure P-6) whereby she has been directed by respondent No. 3 to join at her new place of posting i.e. Health Sub Centre, Sari under BMO Nerwa pursuant to having been relieved from Sub-Centre Batol. Petitioner has also prayed that she be allowed to discharge her duties at Health Sub Centre, Batol, District Shimla, where she was posted in terms of order dated 7.12.2011 (Annexure P-5). Significantly Annexure P-5 was passed pursuant to the directions issued by this Court in CWP No. 4026 of 2011, titled as Meena Verma vs. State of H.P. and others. This case has got a chequered history. One Smt. Sita Sharma, who was also working as a Female Health Worker, was transferred vide orders dated 16.3.2011 to Janglik. But vide order dated 3.5.2011 she got herself adjusted at Batol, where the present petitioner Smt. Swatanter Mahindroo was posted as a Female Health Worker. In terms of said order of adjustment, present petitioner was sent to Janglik but vide order dated 16.5.2011 even she got herself adjusted at Anandpur, where one Smt. Meena Verma was posted as a Female Health Worker, who in turn was sent to Janglik.

2. Aggrieved thereof Smt. Meena Verma filed CWP No. 4026 of 2011 (supra), which was disposed of in terms of judgment dated 29.11.2011. This Court

directed that Smt. Meena Verma be permitted to discharge her duties at Anandpur till completion of her normal tenure and Smt. Sita Sharma be transferred to Janglik and present petitioner be posted at Batol. Most significantly, this Court observed that the State had been adopting the practice of adjusting Female Health Workers at the State/District level Hospitals situated within the Municipal limits of Shimla town, without there being any sanctioned/ existing posts. The Court observed that the Female Health Workers were required to be posted in the rural areas.

3. It is not in dispute that the present petitioner Smt. Swatanter Mahindroo and private respondent Smt. Anjana Chauhan are Female Health Workers. This Court had asked the State to produce record leading to the passing of the impugned order dated 3.9.2012. Quite apparently Smt. Anjana Chauhan was adjusted in place of the present petitioner at Batol on medical grounds. Record reveals that medical certificate pertaining to the year 2004 showing Smt. Anjana Chauhan to be suffering from spondylosis was considered by the State. Her ailment is not of such a nature that she cannot be posted in rural areas. Another certificate pertaining to surgical operation undergone by Smt. Anjana Chauhan in the year 2012 also does not reveal that she is suffering from any disability rendering her unfit to serve in a rural area.

4. On the asking of the Court, the State has filed an affidavit dated 27.9.2012 indicating the places of posting of both the petitioner as also the private respondent. Quite apparently and undisputedly, the present petitioner, except for a brief period of 3 months, since the time of her appointment in the year 1984, all throughout her service career has served in the Masobra block, which is adjacent to her place of residence i.e. Sanjauli (Shimla). Petitioner earlier served at Batol, got herself adjusted at nearby place Anandpur and thereafter returned to Batol. Also it is seen that since the year 1995 except for a brief period of nine months, private respondent has served in and around the place of her residence, which is Shimla.

5. We are of the considered view that both the petitioner and private respondent, who are actually residing within the Municipal limits of Shimla town, some how or the other have been managing their places of posting in and around their residences. They were appointed as Female Health Workers and by the very nature of their job are required to serve in the rural areas. People in rural areas, who do not have easy access to medical facilities, are required to be attended on urgent basis. Since the petitioner and private respondent have been serving in and around of their places of residences for more than 17 years, we quash impugned order dated 3.9.2012 (Annexure P-6) and direct the authorities to post both of them in the remotest corner of the State, where they have never served and where the posts are lying vacant for want of availability of Female Health Workers. With the aforesaid observations, the present petition is disposed of. Respondents No.1 and 2 shall take appropriate action on or before 31st January, 2013. Affidavit of compliance shall also be filed within one week thereafter.

Learned Advocate General shall forthwith communicate this order to respondents No. 1 and 2.