

Court No. - 8

Case :- WRIT - A No. - 4896 of 2023

Petitioner :- Shishir Kumar Srivastava

Respondent :- State Of U.P. Thru. Prin. Secy. Medical Health Family Welfare
U.P. Lko. And 3 Others

Counsel for Petitioner :- Anita Tiwari

Counsel for Respondent :- C.S.C.,Puneet Chandra

Hon'ble Dinesh Kumar Singh,J.

1. Heard Ms. Snageeta Singh, learned counsel appearing for the petitioner and Sri Rajesh Singh Chauhan, learned Additional Chief Standing Counsel appearing for the State and Sri Mohit Chandra holding brief of Sri Puneet Chandra, learned counsel appearing for....

2. Present petition under Article 226 of the Constitution of India has been filed seeking quashing the impugned order dated 10.04.2023 passed by respondent No.4 (Chief Medical Officer, Pratapgarh).

3. Learned counsel appearing for the petitioner submits that in similar set of facts this Court allowed Writ A No.4700 of 2023 vide order dated 10.07.2023 and she prays that this writ petition may also be allowed in the same terms. Order dated 10.07.2023 reads as under:-

"1. Heard Sri Shashank Singh, learned counsel for the petitioners as well as Sri Jogendra Nath Verma, learned Standing Counsel and Sri Puneet Chandra, learned counsel for the Mission Director, National Health Mission.

2. The writ petitions under Article 226 of the Constitution of India have been filed impugning the orders dated 16.6.2023 and 5.5.2022 passed by the Chief Medical Officer, Lakhimpur Kheri and Pratapgarh, whereby the petitioners, who are working on contractual basis as Block Community Process Manager, Block Programme Manager, Block Account Manager and Optometrist have been transferred to different blocks from their present place of posting.

3. The petitioners are working under the Mission Director, National Health Mission, Government of Uttar Pradesh.

4. Learned counsel for the petitioners submits that under the contract as well as the circular dated 22.8.2017 issued by the Mission Director, National Health Mission, it is specifically provided that health workers working on contract basis in National Health Mission scheme shall not be transferred to any other place. There is no power vested under the contract or the circular issued by the Mission Director empowering the Chief Medical Officer or the District Health Committee to transfer a contractual employee working under the National Health Mission scheme to any other place.

5. Learned counsel for the Mission Director, National Health Mission does not dispute this assertion made on behalf of the petitioners. He further submits that the

circular dated 22.8.2017 clearly provides that the contractual employees working under the National Health Mission scheme shall not be transferred to any other place.

6. Sri Jogendra Nath Verma, learned Standing Counsel submits that the power to transfer a contractual employee is vested in the District Health Committee constituted under the National Health Mission. However, he is not in a position to demonstrate that Chief Medical Officer or the District Health Committee is entitled or empowered to transfer a contractual employee working under the National Health Mission scheme.

7. Mere approval of the order passed by the Chief Medical Officer by the District Health Committee does not validate the order when there is no such power vested either in the Chief Medical Officer or in the District Health Committee. Thus, the impugned orders are unsustainable and are liable to be quashed.

8. Thus, all the writ petitions are allowed and the impugned orders dated 16.6.2023 and 5.5.2022 in respect of the transfer of the petitioners, are hereby quashed. Consequences to follow."

4. Sri Rajesh Singh Chauhan, learned A.C.S.C. and Sri Mohit Chandra holding brief of Sri Puneet Chandra, learned counsel do not dispute the aforesaid contention of learned counsel appearing for the petitioner.

5. The writ petition is **allowed** in terms of the order dated 10.07.2023 passed in Writ A No.4700 of 2023.

(Dinesh Kumar Singh, J.)

Order Date :- 12.7.2023
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