



2024:UHC:8039-DB

| SL. No. | Date | Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures | COURT'S OR JUDGE'S ORDERS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
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|         |      |                                                                                                  | <p><u>WPSB/ 685/ 2024</u></p> <p><u>Hon'ble Manoj Kumar Tiwari, A.C.J.</u><br/><u>Hon'ble Vivek Bharti Sharma, J.</u></p> <p>Mr. Alok Mahra, learned counsel for the petitioner.</p> <p>2. Mr. J.C. Pande, learned Standing Counsel for the State of Uttarakhand / respondent Nos. 1 &amp; 2.</p> <p>3. By means of the present writ petition, the petitioner has sought the following reliefs:-</p> <p><i>“(i) Issue writ, order and direction in the nature of certiorari to quash the impugned Transfer order dated 31.08.2024 passed by respondent No. 2 (contained as Annexure No. 7 to this writ petition) and further be pleased to direct the respondents to permit the petitioner to work on the post of Principal, District Hospital (Coronation), Dehradun in pursuance of order dated 26.08.2024.</i></p> <p><i>(ii) Issue any other writ, order or direction which this Hon'ble Court deems fit and proper in the facts and circumstances of the case.</i></p> <p><i>(iii) Award cost of the writ petition to the petitioner.”</i></p> <p>4. It is not in dispute that the petitioner was transferred as a Principal Medical Superintendent to Coronation Hospital, Dehradun in the month of July, 2024. Now, he has been transferred as Principal Medical Superintendent, Sub District Hospital (Base Hospital), Kotdwar, Pauri Garhwal vide order</p> |



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|  |  | <p>dated 31.08.2024. The said order was passed in respect of the petitioner in terms of the order passed by this Court in WPSB No. 469 of 2024. The relevant portion of the order dated 02.08.2024 passed in WPSB No.469 of 2024 is extracted below:-</p> <p><i>“3. Petitioner is serving as Physician in department of Medical Health and Family Welfare since 1994; presently he is posted at Coronation Hospital, District Dehradun. He is aggrieved by order dated 26.07.2024 passed by Secretary of concerned department whereby Dr. Rajeev Singh Pal (respondent no.3) has been posted as Principal Medical Superintendent, Coronation Hospital, District Dehradun.</i></p> <p><i>4. According to petitioner, he is senior to respondent no.3, therefore, respondent no.3 could not have been posted as Principal Medical Superintendent in a hospital, where petitioner was holding charge as Chief Medical Superintendent.</i></p> <p><i>5. Learned State Counsel was asked to get instructions.</i></p> <p><i>6. Today, on instructions, learned State Counsel submits that petitioner was promoted as Additional Director, Medical Health and Family Welfare Department vide order dated 21.09.2022 and he joined on the promoted post on 26.09.2022 however, on 12.10.2022, petitioner made a representation that due to health reasons, he is not in a position to discharge duties as Additional Director and he may be posted as Physician, where he can serve the patients.</i></p> <p><i>7. Learned State Counsel has produced the application submitted by petitioner on 12.10.2022, which is taken on record.</i></p> <p><i>8. Perusal of said application indicates that petitioner had expressed his reluctance to discharge duties on administrative post.</i></p> <p><i>9. Thus, learned State Counsel submits that due to disinclination shown by petitioner to serve on administrative post,</i></p> |
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|  |  |  | <p><i>petitioner was not offered promotion this time and respondent no.3 was promoted as Principal Medical Superintendent of Coronation Hospital, District Dehradun.</i></p> <p><i>10. Learned State Counsel, however submits that if petitioner expresses his willingness to hold administrative post by making a representation, then petitioner's claim for posting on administrative post shall be considered against available vacancies, wherever available.</i></p> <p><i>11. Learned counsel for petitioner, on instructions, submits that petitioner is now ready to serve on administrative post, therefore, he will indicate his willingness by making a representation.</i></p> <p><i>12. Writ petition is accordingly, disposed of by directing that in the event petitioner expresses his willingness to hold administrative post, then Secretary, Medical Health shall consider petitioner's claim and pass appropriate order, as per his seniority, assigning him administrative position, wherever vacancies is available."</i></p> <p>5. Learned counsel for the petitioner contends that this Court had disposed of the said writ petition filed by respondent No. 3 by directing that his claim for posting on administrative position shall be considered as against available vacancies, wherever the same are available. Then, he submits that since no vacancy was available at Coronation Hospital, Dehradun, therefore, respondent No.3 could not have been transferred there.</p> <p>6. Learned State Counsel disputes the said submission and submits that respondent No. 3 is senior to the petitioner, therefore, on his representation, he was given posting as Principal Medical Superintendent at Coronation Hospital, Dehradun and petitioner</p> |
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9. It goes without saying that respondent No. 3 shall also be heard, in case his interest is prejudiced by any decision to be taken on the petitioner's representation.

Bathour

Digitally signed by PRAVINDA S RATHOUR  
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