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HIGH COURT OF CHHATTISGARH, BILASPUR**W.P. (S) No. 652 of 2017**

Dr. Mrs. Meeha Goyal, aged about 64 years, W/o. Shri N.K. Goyal, presently working as Professor, Department of Anatomy, Pt. Jawahar Lal Nehru Memorial Medical College, Raipur (C.G.), R/o. C-1, Medical College Colony, Devendra Nagar, Raipur (C.G.)

---- Petitioner**Versus**

1. State of Chhattisgarh through Secretary, Department of Health & Medical Education, Secretariat, New Raipur, Police Station Rakhi, Post Office Rakhi, District Raipur (C.G.)
2. Dean, Pt. Jawahar Lal Nehru Memorial Medical College, Raipur (C.G.), Chhattisgarh Medical & Health Science University, Jail Road, Raipur (C.G.)
3. Director of Medical Education, Old Nursing Hostel, Behind D.K. Hospital, near Lal Ganga Shopping Complex/Mall, G.E. Road, Raipur (C.G.)
4. Dr. Manik Chatterjee, presently working as Professor & Head of the Department, Department of Anatomy, Pt. Jawahar Lal Nehru Memorial Medical College, Raipur (C.G.)

---- Respondents

For Petitioner: Mr. Sudeep Verma, Advocate.
 For State : Mr. Prasun Bhaduri, Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****08/02/2017**

Heard.

- (1) Instant writ petition has been filed by the petitioner claiming that she is the senior most Professor in the Department of

Anatomy, Pt. Jawahar Lal Nehru Memorial Medical College, Raipur (C.G.) but the Dean of the said Medical College has directed the respondent No. 4 to look after the work of Head of the Department of Anatomy by the impugned order.

(2) Shri Sudeep Verma, counsel for the petitioner would submit that the impugned order is illegal and bad in law and is liable to be set aside, which is vehemently opposed by learned counsel for the State.

(3) Earlier, the petitioner has preferred Writ Petition being No. W.P. (S) No.1243 of 2016, in which the State Government had filed its reply, which states as under:-

“7. It is respectfully submitted that there is no criteria/rules framed for the purpose of giving charge of Head of Department by the State Government. However, it is respectfully submitted that as per the guidelines framed by the Medical Council of India vide notification dated 1st July, 2015 as per clause 11 (8)(c) (1)), in every department there should be a person of the rank of Professor as the Head of the department who will exercise, control over the said department. Thus, it is submitted that the government can appoint any person working against the post of Professor of the said department as the Head of the Department. It is respectfully submitted that in the present case the respondent No. 4 is working against the sanctioned and vacant post of Professor, Department of Anatomy and also drawing salary against the said post. Therefore,

keeping in view his suitability and keeping in view the MCI guidelines the respondent No. 4 is fit to be appointed as Head of Department of Anatomy. It is further submitted that it is for the respondent No.2, i.e. Dean of the Medical College to decide as to on whom the charge of Head of Department should be conferred so that the administrative working of the department can be functioned properly and smoothly. Copy of the MCI notification dated 1st July, 2015 is annexed herewith as **Annexure R-2.**

8. It is further respectfully submitted that as per guidelines of the Medical Council of India each department shall have a Head of the Department of full time Professor who shall have over all control over the department. In the present case the respondent No. 4 is working as Professor-Cum-Head of the Department of Anatomy and his salary is also draw against the sanctioned post of Professor of Anatomy. Therefore, it is proper to give charge to respondent No. 4 as the head of the Department of Anatomy. Though, the petitioner is also Professor of Anatomy but she did not join in her promoted post of posting as Professor, Government Medical College, Rajnandgaon and after amendment in her posting order she joint at Pt. J.N.M. Medical College, Raipur and she is drawing salary against post of Professor of Microbiology. Whereas the respondent No. 4 had already joined prior to petitioner and working. Thus, it is submitted that the

petitioner could not taken benefit of her own mistake because if she would have joined at her promoted post of posting at Government Medical College, Rajnandgaon she would have been given the benefit of Head of Department of Anatomy.”

(4) That writ petition {W.P. (S) No.1243 of 2016} was withdrawn by the petitioner on 17.08.2016 with liberty to take up the matter with the Dean. Now, the Dean has rejected the application filed by the petitioner by order dated 06.12.2016 (Annexure P-13) holding that post of Head of the Department is academic post and not the regular post, against which the instant writ petition has been filed by the petitioner questioning the same.

(5) It appears from the record that the petitioner was firstly promoted to the post of Professor, Department of Anatomy on 09.10.2015 and transferred to Govt. Medical College, Rajnandgaon, where she did not join; and subsequently that order was modified on 19th October, 2015 and petitioner was posted at Raipur Medical College but since there is only one sanctioned vacant post of Professor (Anatomy) in the Medical College, Raipur, the petitioner was allowed to work at Raipur Medical College and his salary is being drawn from the one sanctioned post of Professor in the Department of Microbiology, which is apparent from the order dated 5.7.2016 (Annexure R-1). Thus, the petitioner, who was transferred to Govt. Hospital, Rajnandgaon, did not joint and she was ultimately accommodated at Medical College, Raipur.

(6) Learned counsel for the State submits that if the petitioner would have joined at her promoted post of posting at Government Medical College, Rajnandgoan on the post of Professor, Anatomy, she would have been given the charge of Head of the Department of Anatomy. The Principal Secretary, Health has also filed affidavit stating that the post of Head of Department is a academic post and not the regular post, therefore, the circular of the State Government directing handing over the charge to Senior Most person is not applicable to the post of Head of Department of Medical College.

(7) In view of the aforesaid discussion, it reveals that the petitioner, who herself did not join the transferred place at Rajnandgaon on the vacant post of Professor, Anatomy, and only to accommodate her, she has been allowed to work at Raipur Medical College and her salary is drawn against the vacant sanctioned post of Professor, Microbiology and post of Head of Department is an academic post, circular dated 4.7.2014 does not apply. Therefore, I do not find any ground to entertain this writ petition warranting interference by this Court in the instant writ petition.

(8) Accordingly, the writ petition being devoid of merit, is liable to be and is hereby dismissed.

Sd/-
(Sanjay K. Agrawal)
Judge

