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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 3043/2017

PUSHPA DEVI

..... Petitioner

Through: Mr.Vishwendra Verma, Advocate

versus

**DIRECTOR, ALL INDIA INSTITUTE OF MEDICAL SCIENCE &
ORS**

..... Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **12.04.2017**

CM No.13281/2017

Exemption allowed, subject to all just exceptions.

W.P.(C) 3043/2017 and CM No.13280/2017

Pushpa Devi, in this writ petition, impugns the orders dated 15th December, 2016 and 2nd March, 2016 whereby O.A.No.4017/2013 and R.A.No.58/17 respectively have been dismissed.

2. The petitioner, in OA No.4017/2013, has challenged the order of transfer dated 30th September, 2013 from the Gynaecology Department, AIIMS to CHRS Ballabgarh. The contention of the petitioner was that this transfer was punitive in view of complaints of the co-workers.

3. The aforesaid contentions were examined by the Tribunal in the order dated 15th December, 2016 and have been rejected.

4. The inter-departmental transfer order is within AIIMS.

Administrative decisions have to take into account and consider several aspects to facilitate smooth functioning. An order of transfer cannot be treated as punitive, if it is for administrative grounds and convenience. Courts would hesitate to interfere. From 1998 till 2013, the petitioner had remained posted in AIIMS, New Delhi. The Tribunal has examined these aspects. It will not be appropriate for us to interfere with the order of transfer.

5. During the course of hearing, learned counsel for the petitioner has submitted that vide Memorandum dated 15.7.2016, the Competent Authority was pleased to transfer/post the petitioner from the Recruitment Cell to Doctor RP Centre with immediate effect. The petitioner states that she is ready and willing to join the said post. The petitioner can make a representation in this regard. We hope and trust that the authorities would consider the said representation.

6. The other contention of the petitioner is that on transfer, the petitioner was posted at a lower post of Multipurpose Worker at CRHS Project, Ballabgarh. The said contention was not examined in the order dated 15th December, 2016 and the same has been examined and answered in the order dated 2nd March, 2017 by which the RA No.58/17 has been dismissed.

7. Paragraph 7 of this order records that on transfer to the CRHS Project, Ballabgarh, the petitioner was posted in the same pay-scale as Health Assistant. There was no demotion.

8. We would not accept the argument that the petitioner was transferred to the lower post. This argument is predicated on the plea that earlier or prior to 30th September, 2013, a Multipurpose Worker

was posted at CRHS Project, Ballabgarh and thereafter the petitioner has been posted as a substitute. This by itself would not show that the post to which the petitioner was transferred in CRHS Project, Ballabgarh, was a lower post. The same post can be manned by a Multipurpose Worker and a Health Assistant. It is not the contention of the petitioner, that as per Rules or even administrative instructions that post at CRHS Project, Ballabgarh was to be occupied by a Multipurpose Worker. The cadre of the earlier worker would not determine whether the post is lower. Therefore, the findings recorded in the order dated 2nd March, 2017 dismissing the RA do not require consideration.

9. With the aforesaid observations, the writ petition is dismissed.

SANJIV KHANNA, J

ANU MALHOTRA, J

APRIL 12, 2017/sv