

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP-27312-2018

Date of decision: 01.11.2018

Anju Bala

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ramesh Goyat, Advocate for the petitioner.

Ms. Palika Monga, DAG, Haryana.

Mr. Deepak Thapar, Advocate for respondent No. 4.

Ritu Bahri, J. (Oral).

The petitioner was appointed as Senior Scientific Assistant (Serology) on 11.09.2009 and then promoted as Senior Scientific Officer (Serology) on 17.07.2015 and she had been at Forensic Science Laboratory, Madhuban Karnal. Vide order dated 21.03.2017 (Annexure P-2), the Director General of Police, Panchkula transferred her to Regional Forensic Science Laboratory, Bhondsi, Gurugram. She has further been sent back to Forensic Science Laboratory, Madhuban vide order dated 25.09.2018 (Annexure P-6) on temporary basis to examine the cases received in the month of September, 2018 and immediately thereafter vide order dated 15.10.2018 (Annexure P-9), respondent No. 4 has sought files from Bhondsi, Gurugram to Madhuban and vide order dated 16.10.2018 (Annexure P-10) the department of the petitioner has been changed from Serology to Biology.

Learned counsel for the petitioner contends that there is background to transfer the petitioner back from Gurugram to Madhuban vide order dated 25.09.2018 (Annexure P-6) and changed her department from Serology to Biology vide order dated 16.10.2018 (Annexure P-10) since she has made complaint against respondent No. 4 (Annexure P-7 and P-8). Her grievance is that the enquiry committee has not been constituted as per the guidelines and norms laid down by Supreme Court in ***Vishaka V/s. State of Rajasthan 1997(4) RCR (Criminal)187*** and as per the Sexual Harassment of Women at work place Prevention, Prohibition and Redressal Act, 2013.

After notice of motion, short reply by way of affidavit dated 27.10.2018 and written statement dated 31.10.2018 have been filed by the Director, Forensic Science Laboratory, Haryana, Madhuban Karnal taking the stand that the petitioner has been adjusted in RFSL Bhondsi vide order dated 21.03.2017 keeping in view her family circumstances. In the financial year 2017-18, her performance has been very poor and she has done only 19 case per month. The stand taken by the Director is that he joined FSL, Madhuban in April, 2018 and noticed that FSL was facing challenging task of huge pendency and lack of staff. The situation was very critical and resources were limited. In order to achieve zero pendency, a special strategic drive was started by fixing the target of clearing the pending files/matters vide order dated 07.06.2018 (Annexure R-1). In RFSL, Bhondsi, the average receipt of cases in Serology Division was about 25-30 cases in a month and in FSL, Madhuban, it was approximately five times more than the RFSL, Bhondsi. In this backdrop, the Director directed the petitioner to coordinate with Assistant Director, Serology, Madhuban to

achieve the target of 60 cases as per instructions dated 08.06.2018 (Annexure R-2). During the months of June, July and August, 2018, the petitioner achieved her target of 60 cases. However, in September, 2018, she reported only five cases out of 22 cases pending in RFSL, Bhondsi, Gurugram. Thereafter, the petitioner was temporarily attached with the Serology Division at FSL, Madhuban to examine the cases received in the month of September, 2018 vide order dated 25.09.2018 (Annexure P-6). The petitioner proceeded on leave on 26.09.2018 and kept all the pending cases in the lock of the office almirah which are still pending. She was directed to hand over all the pending cases to the Constable Mukesh posted as Assistant to the petitioner in the Serology Division at RFSL, Bhondsi. Thereafter on 27.09.2018, she submitted a complaint regarding sexual harassment against Satpal Kaushik, Assistant Director & Incharge Serology Division, FSL, Madhuban and a Committee was constituted vide order dated 23.10.2018 (Annexure R-3). Since there was less work in Serology Division, RFSL, Bhondsi, she was temporarily given duty to do work in the Biology Division, FSL, Madhuban vide order dated 16.10.2018 (Annexure P-10). Alongwith the petitioner Dr. Surjeet Singh(SSO) of Serology Division to DNA Division has also been attached.

Further, written statement dated 31.10.2018 has been filed by Director, Forensic Science Laboratory, Madhuban (Karnal), wherein it has been clarified that respondent No. 4 had recommended the case of the transfer of the petitioner to RFSL, Bhondsi as per his comments dated 05.12.2016 (Annexure R-4) and Dr. R.K. Koshal, the then Director, FSL, Haryana, Madhuban has issued the petitioner an advisory for her poor performance vide letter dated 16.11.2017 (Annexure R-5). In this letter, it

has been stated that in the month of October, 2017 she has done only 16 cases. She was asked to examine some cases after taking files from Assistant Director (Serology) of FSL, Madhuban. Further keeping in view pendency of work at FSL Madhuban, the petitioner was sent on temporary duty vide order dated 25.09.2018 (Annexure P-6). A perusal of the written statement shows that as per Rule 12 of the Haryana Forensic Science (Group B) Service Rules, 1980, ***a member of service shall be liable to serve under Government at any place, whether within or outside the State of Haryana.*** Hence, the transfer of the petitioner from RFSL, Bhondsi to FSL, Madhuban vide order dated 25.09.2018 (Annexure P-6) was in accordance with rules.

The petitioner is making attempts to delay the proceedings by keeping the serology cases pending at RFSL, Bhondsi, which has been locked by her. She has refused to participate in the enquiry on the complaint made against respondent No. 4-Dr. Satpal Kaushik before the Committee headed by S.P. Nuh. In the written statement, it is further clarified that with respect to complaint made by Smt. Saroj Bala, Scientific Assistant and Smt. Achla Sharma, on enquiry, allegation of sexual harassment has not been found.

The writ petition deserves to be allowed. Vide order dated 21.03.2017 (Annexure P-2) the Director General of Police, Haryana has transferred the petitioner to RFSL, Bhondsi keeping in view her special family circumstances and her transfer has been recommended by respondent No. 4. Further, after going through the reply by respondents, it is further transpired that on account of her slow work, even at RFSL, Bhondsi, the petitioner was sent a letter dated 16.11.2017 (Annexure R-5) by the

Director, FSL, Madhuban that she had completed only six crime cases in the month of October, 2017 and she was asked to examine some cases after taking files from the Assistant Director (Serology) of RFSL, Madhuban where pendency was increasing day by day and she had only reported 16 cases and she was advised to report as per the prescribed limit of Worthy/DGP Haryana. A perusal of letter dated 08.08.2018 (Annexure P-5) further shows that some 25 files were sent from Madhuban to Gurugram to be examined by the petitioner to bring the target of pendency at zero level. Hence, a combined reading of letter dated 08.08.2015 (Annexure P-5) and the letter dated 16.11.2017 (Annexure R-5) shows that the petitioner was not working upto the expectations of the Director, FSL in terms of disposal of cases. Moreover at the same time, she was sent on temporarily basis to achieve the target fixed by the Director vide orders dated 07.06.2018 (Annexure R-1) and 08.06.2018 (Annexure R-2) attached with the affidavit dated 27.10.2018. The pendency of the sexual harassment complaint and constitution of Committee cannot be made a ground to do less work for the petitioner. However, keeping in view her special family circumstances, the order dated 16.10.2018 (Annexure P-10) is being set aside and further direction is being given that the petitioner while being adjusted at RFSL, Bhondsi, Gurugram, will do the work of all the files which are assigned to her to the satisfaction and expectations of the Director in order to meet the target set out in the instructions dated 07.06.2018 (Annexure R-1) and 08.06.2018 (Annexure R-2) and as per the prescribed limit of Worthy/DGP Haryana.

01.11.2018

Divyanshi

(RITU BAHRI)
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No