

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 74 of 2011

Smt. Alo Nandi W/o Virendra Nandi, Aged about 47 years, Working As Staff Nurse Govt. Medical College Maharani Hospital Jagdalpur Chhattisgarh

---- Petitioner

Versus

1. State of Chhattisgarh, through: Secretary, Health and Family Welfare Department, D.K.S. Bhawan, Mantralaya, Raipur, District Raipur, Chhattisgarh
2. Director, Health Service, Raipur, Chhattisgarh
3. Director, Medical Education, Old Nurses Hostel, D.K.S. Bhawan, Mantralaya, Raipur, District Raipur, Chhattisgarh.
4. Joint Director-cum-Superintendent, Govt. Medical College, Maharani Hospital, Jagdalpur, Chhattisgarh

---Respondents

For Petitioner	:	Mr. C. Jayant K. Rao, Advocate
For State	:	Mr. Chandresh Shrivastava, Dy. A.G. Ms. Ishwari Ghritlahare, P.L.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

22/08/2019

1. The relief sought for by the petitioner primarily in the present writ petition is for an appropriate direction to the respondents to consider incorporating the name of the petitioner as an employee under the Director, Medical Education and thereby after granting proper seniority from the date of initial appointment, the petitioner be granted the consequential benefits of promotion as has been granted to the similarly placed persons.
2. The facts of the case is that the petitioner was initially appointed as a Staff Nurse vide order dated 19.09.1988. The services of the petitioner at that point of time was under the Director, Health Services. The petitioner was posted at the Govt. District Hospital on transfer vide order dated 17.03.1995 and the services of the petitioner was placed under the control of Chief

Medical and Health Officer, Jagdalpur. The said Govt. District Hospital was later on known as the Govt. Maharani Hospital. Vide notification dated 24.02.2006 the Government issued a notification for establishment of a Medical College at Jagdalpur. The Govt. Maharani Hospital i.e. the erstwhile Govt. District Hospital was converted into a Govt. Medical College and the services of the petitioner were retained under the Medical College establishment. Right from the date of appointment, till date the petitioner is working as a Staff Nurse under the respondents. Subsequently, the Medical College, Jagdalpur was shifted to a new place i.e. a place known as Dimrapal. The services of the petitioner also stood shifted to the Govt. Medical College at Dimrapal i.e. the new location where again the petitioner continue to work as a Staff Nurse till date.

3. The grievance of the petitioner now is that in the gradation list of Staff Nurses that was published by the Director, Health Services, the name of the petitioner is not reflected as a Staff Nurse under the Health Services. The further grievance of the petitioner is that on one hand the services of the petitioner is not reflected under the Director, Health Services and at the same time the Director, Medical Education is not accepting the petitioner as an employee under the Department of Director, Medical Education and in the process, the petitioner is being deprived of her right for promotion under either of the Departments.
4. According to the petitioner, on 16.06.2010, a promotion order was issued by the Director, Medical Education from the Staff Nurses to the Nursing Sisters and the petitioner though she was fully eligible for the promotion has not been considered for promotion, perhaps only on the ground that she was not accepted to be an employee under the Director, Medical Education.

5. The petitioner at this juncture referred to Annexure P/5, which is a correspondent made by the office of the Directorate, Health Services, Chhattisgarh Government dated 18.10.2010, whereby the Director, Health Services submits that since the services of the petitioner have been transferred to the Medical College, the entire staffs, who were transferred have been treated as employees under the Director, Medical Education and that there is no allotment or allocation made for those staffs, who have since been transferred to the Medical College, which means that the salary and other benefits, which the petitioner is drawing is in fact from the Department of Medical Education and not from the Department of Health Services.
6. So far as the reply which the State Government has filed, there does not seem to be any justifiable stand that the State Government has taken and that the only stand that has been taken is also a bald reply of only denial of the contentions put forth by the petitioner and also the fact that the petitioner since there was no formal order of absorption, she cannot be considered to be an employee of the Medical Education Department
7. Having heard the contentions put forth on either side and on perusal of record, once when the name of the petitioner has been struck down from the gradation list maintained in the Health Services, the respondents were duty bound to take a stand of either absorbing the services of the petitioner with the Education Department or should have sent back the services of the petitioner to the Health Services. The petitioner cannot be forced to incur loss of neither being treated as an employee of the Health Services nor being treated as an employee of Medical Education Department.
8. Given the aforesaid facts and circumstances of the case, this Court is of the opinion that the case of the petitioner needs consideration at the earliest for

observation in the Medical Education Department. Accordingly, the respondent No.3 is directed to consider the case of the petitioner so far as her claim for absorption in the Medical Education Department is concerned, subject to the petitioner's being observed in the Medical Education Department. In case if the services of the petitioner stands absorbed then, She should be granted all consequential benefits at par with the persons similarly placed treating her to be the employee under Medical Education Department. Let an appropriate decision in this regard be taken at the earliest preferably within a period of 4 months from the date of receipt of the copy of this order.

9. With the aforesaid observations, the present writ petition stands allowed and disposed off.

Sd/-
(P. Sam Koshy)
Judge

Ved