

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

CWP No. 20606-2017 (O&M)

Date of decision : 27.03.2019

Dr. Vazir Singh Rathee

.....Petitioner

versus

Pt. B D Sharma Uni. of health Science, Rohtak and ors.

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Rajesh K. Katarai, Advocate
for the petitioner.

Mr. Nilesch Bhardwaj, Advocate
for the respondents.

RITU BAHRI, J. (Oral)

The petitioner is seeking quashing of rejection order dated 14.03.2017 (P-8).

This Court on 26.03.2019 passed the following order:-

“The petitioner is seeking quashing of the rejection order dated 14.03.2017 (Annexure P-8). A perusal of the impugned order shows that the request of the petitioner for transfer from General Surgery Department to Urology Department could not be considered as there was no vacant post in Urology Department, PGIMS, Rohtak.

Written statement dated 10.12.2017 has been filed by the respondents. As per para 11 of the written statement, the stand taken by the respondents was that there is no post of Teacher (Assistant Professor) in Urology Department and it is further stated that the petitioner will be transferred as and when the post of Assistant Professor will become vacant/created. The resignation submitted by Dr. Santosh Kumar Singh, Senior Professor on 25.07.2016 has not been accepted.

Learned counsel for the petitioner has referred to order dated 15.02.2018 (Annexure P-19) whereby resignation letter of

Dr. Santosh Kumar Singh, Sr. Professor, has been accepted w.e.f. 25.07.2016 and the post is now vacant after 15.02.2018 (Annexure P-19) where the petitioner can be adjusted.

Learned counsel for the respondents has informed that with regard to vacant post in the General Surgery Department where the petitioner is working, they have sent a letter to the Election Commission as well as Additional Chief Secretary, Govt. of Haryana to give them permission to fill up the vacant post of General Surgery Department as there is shortage.

Learned counsel for the respondent seeks time to get instructions with respect to Annexure P-10.

List on 27.03.2019. “

Today, learned counsel for the respondents submits that as per latest position till 26.03.2019, against 19 sanctioned post of General Surgery, 12 have been filled up and 07 are lying vacant. As far as Urology department is concerned, against two sanctioned post, 01 is filled up and 01 is lying vacant.

At the same time, as per information received under RTI dated 01.05.2017 that even in the year 2017, against 19 sanctioned post of Department of General Surgery, 13 were filled up and 06 posts were lying vacant. Thus, the short fall is continuing since 2017 . Thereafter, a letter dated 21.03.2019 has been written by the Director of University to the Addl. Chief Secretary seeking permission from Election Commission for filling up posts of Assistant Professors and Senior Residents in the department of General Surgery and General Medicine in University.

After hearing learned counsel for the partes and going through the reply, one thing which is apparent that the shortfall is existing since 2017 and as per written statement filed on 10.12.2017, a specific stand was taken that as and when vacancy will be available of Assistant Professor, the petitioner will be transferred. In para 11 of the written statement, the stand taken was that there is

no post of Teacher (Assistant Professor) in Urology Department. Further in para

1 of the preliminary submission, it has been stated that the petitioner will be allowed to work in Urology Department as and when the post of teacher i.e Assistant Professor will be vacant/created. The petitioner can attend the Urology patients coming in Surgery Department or in the alternative he be allowed to work in Urology department in addition to his own duty if he wishes to do.

Now after the resignation of Dr. Santokh Kumar on 15.02.2018 (P-19), the vacancy is available and the petitioner can be adjusted. The petitioner case cannot be withheld simply on the ground that a letter dated 21.03.2019 has been written seeking permission for filling up posts of Assistant Professors and Senior Residents in the department of General Surgery and General Medicine in University.

In view of the discussions made above, the present writ petition is allowed and order dated 14.03.2017 (P-8) is set aside. The respondents are directed to transfer the service of the petitioner in Urology department, subject to the condition that in case he will be required to do additional work to examine the patients in General Surgery department, he will do the same. This exercise shall be completed within a period of two weeks from the date of receipt of certified copy of this order.

March 27, 2019
G Arora

(RITU BAHRI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No