

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

**-.-**

**CWP No. 25823 of 2019**

**Date of decision:17.09.2019**

Savita Aggarwal

... Petitioner

**Vs.**

Indian Red Cross Society and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE AMIT RAWAL**

Present:- Mr. Keshav Pratap Singh, Advocate, and  
Mr. Vishal Thakur, Advocate, for the petitioner.

Mr. Kuldeep Tiwari, Advocate, for the respondent.

**AMIT RAWAL J. (Oral)**

Petitioner has invoked the extra-ordinary jurisdiction of the Court claiming follwing relief:-

(i) issue an appropriate writ, order or direction, especially in the nature of quo-warranto, challenging the appointment (Transfer) of the respondent No.3 to the post of Joint Secretary, Haryana State Branch (HQ), Indian Red Cross Society, as he does not fulfill the criteria for the appointment to the post of Joint Secretary, the transfer of the respondent No.3 is colourable exercised by the respondents No.1 and 2.

(ii) Further writ, order or direction, especially in the nature of Certiorari for quashing order/letter dated 10.09.2019 (Annexure P-6) passed by respondent No.2, whereby the representation submitted by the petitioner has been arbitrarily dismissed without assigning any cogent reason.

(iii) Further writ, order or direction, especially in the nature of

Certiorari for quashing office order dated 06.09.2019 (Annexure P/4)

passed by official respondents, whereby the petitioner has been ordered to be transferred from the post of Joint Secretary, Indian Red Cross Society, Haryana State Branch (HQ) to the post of District Secretary (Secretary), District Red Cross Branch, Panchkula and the respondent No.3 has been ordered to be transferred to the post of the petitioner.

(iv) It is further prayed that during the pendency of the present writ petition, the operation of the impugned order/letter dated 06.09.2019 (P/4) may kindly be stayed, in the interest of justice.

Mr. Keshav Pratap Singh, learned counsel appearing on behalf of the petitioner along with Mr. Vishal Thakur, Advocate, submits that vide Annexure P-1, dated 02.06.2006, in exercise of powers conferred by Rule 20-A of the Indian Red Cross Society and St. John Ambulance Association, Haryana State Branches (Headquarters) Staff Rules, 1986, the Governor-cum-President, Indian Red Cross Society, Haryana State Branch appointed petitioner as Joint Secretary, Indian Red Cross Society for a period of two years, extendable on year to year basis. She was granted another period of one year w.e.f 05.06.2008 and her appointment was made regular on 01.01.2009. Since then she has been discharging the duties to the satisfaction of the superiors. There are two set of Service Rules applicable to the employees i.e. Service Rules (State Headquarters) of Indian Red Cross Society and St. John Ambulance (India), Haryana State Branch as well as District Branches, Haryana.

The appointing authority for Joint Secretary as per State Branch Rules is the President i.e. the Governor and for promotion to District Secretary is also President. No doubt the President is empowered, as per the rules to transfer District Secretaries/Assistant Secretaries *inter se* and as well as of the State Red Cross Employees. The petitioner vide order dated 06.09.2019 (Annexure P-4) has

been transferred as Secretary District, Red Cross Branch, Panchkula vice Sh. Anil Kumar Joshi, Secretary, District Red Cross Branch, Panchkula which is governed by the service rules of District Branches where the appointing authority of Secretary and Assistant Secretary is a committee consisting of Deputy Commissioner, General Secretary and Civil Surgeon as Chairman, Member Secretary and Member either through direct recruitment or promotion. Petitioner in this regard submitted a detailed representation (Annexure P-5) highlighting the applicability of the Rules as well as prejudice qua her future promotion and seniority. The afore-mentioned representation vide impugned order dated 10.09.2019 (Annexure P-6) without assigning any reason much less cogent reason has been dismissed.

Though this Court accepting the argument found it fit case particularly in the absence of reason in the impugned order in issuing notice of motion.

At this stage, Mr. Kuldeep Tiwari, learned counsel appearing on behalf of Indian Red Cross Society, Haryana State Branch submitted that the apprehension of the petitioner is figment of imagination as per Appendix 'B' of Haryana State Branch Rules, promotion has to be effected amongst the first three seniors District Secretaries from the entire District Red Cross Branches of Haryana and Joint Secretary State Branch on seniority-cum-merit basis under Rule 11. The merit will be the consideration on the basis of service record. The seniority of the petitioner in these circumstances is not affected.

At this stage, Mr. Keshav Pratap Singh's apprehension is that the whole purpose of transferring the petitioner is to give benefit to the incumbent Mr. Anil Kumar Joshi, as there is no comparison. He further points out that respondent No.3 in seniority list is at Sr. No.12 and moreover he could not have been transferred on the post in the absence of qualification and, therefore, presses the

second prayer i.e. writ of quo-warranto. I am afraid aforementioned argument would not be taking into effect as quo-warranto is applied in case of appointment but the case in hand is not a case of appointment, it is only the case of transfer. As regards other grievance i.e. the promotion and the seniority, once Mr. Kuldeep Tiwari has undertaken on instructions from Mr. Naresh Kumar, Assistant I.R.C.S, Haryana State Branch, I am of the view that apprehension expressed is pre-mature and from pleading of the parties it has not been pointed out that respondents are considering the case of promotion by ignoring the petitioner or his seniority i.e. Haryana State Branch.

In such circumstances, I am of the view that the writ petition is pre-mature as far as other relief of quo warranto in view of reasons hereinabove, the same is not maintainable. Accordingly, writ petition stands disposed of.

**(AMIT RAWAL)**  
**JUDGE**

**September 17, 2019**

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Whether Speaking/Reasoned Yes/No

Whether Reportable Yes/No