

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 2200 of 2021**

Dr. Pallavi Mishra W/o Shri Sanjay Banjare Aged About 28 Years R/o - Jarhabhata, Om Nagar, Bilaspur, District- Bilaspur Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through - Secretary, Medical Education Department, Old Nurses Hostel, Dks Bhavan Parisar, Raipur District- Raipur Chhattisgarh.
2. Director, Medical Education Department Old Nurses Hostel, Dks Bhavan Parisar, Raipur District- Raipur Chhattisgarh.
3. Chhattisgarh Institute Of Medical Sciences Through The Dean, Bilaspur, District- Bilaspur Chhattisgarh.
4. National Medical Commission Through The Secretary, Pocket-14, Sector-8, Dwarka Phase-1, New Delhi 110077

---- Respondents

For Petitioner	:	Mr. Gary Mukhopadhyay, Advocate under instructions of Mr. Ravindra Sharma, Advocate
For State	:	Mr. Jitendra Pali, Dy. A.G.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****11/06/2021**

1. The present writ petition has been filed claiming for the following reliefs:

“10.1. It is therefore prayed that this Hon'ble Court may kindly be pleased to issue a writ of mandamus directing the respondent State to allow the petitioner to perform the duties as a Demonstrator at Chhattisgarh Institute of Medical Science, District Bilaspur till the selection of regular Demonstrator.

10.2 It is therefore prayed that this Hon'ble Court may kindly be pleased to direct the respondents authorities to consider the representation of the petitioner.

10.3 That, this Hon'ble Court may kindly be pleased to direct the respondents that there is no impediment in allowing the petitioner to continue as contract employee in the post of Demonstrator in the Department of Microbiology in respondent CIMS, till the regular appointment is made in the interest of justice.

10.4 That, this Hon'ble Court may kindly be pleased to direct the respondents to not apply the new regulations upon the petitioner, by treating the renewal of contract period of petitioner as fresh appointment in the post of Demonstrator in the Department of Microbiology in respondent CIMS, in the interest of justice."

2. Aggrieved by the decision of the respondents in not considering the contractual appointment of the petitioner, the present writ petition has been filed. The petitioner is a candidate having M.Sc. and Ph.D. in Microbiology subject. The petitioner had applied for the post of Administrator in Microbiology Department at the Chhattisgarh Institute of Medical Sciences. The petitioner gave her joining on 19.02.2020. The order of appointment clearly stipulates that the appointment of the petitioner were purely on contractual basis till a regular appointment is made or for a fix period of one year, whichever is earlier. The petitioner continued to work and discharged her duties as an Administrator till February, 2021 and on completion of the period of appointment of one year, the contractual engagement of the petitioner stands discontinued. The petitioner had filed the present writ petition primarily claiming a relief that the petitioner, who was a contractual appointee should not be substituted by another set of contractual appointee.
3. State counsel on the other hand opposing the petition submits that since the appointment of the petitioner was purely contractual for a fix period of one year and the petitioner having been permitted to discharge her duties for one year, no further right is conferred upon the petitioner claiming for any relief for continuity of service.
4. The contract stands accomplished on completion of one year tenure, thereafter if at all if the appointments have to be made, the petitioner would be at liberty to participate in the recruitment process and if she

is found selected, she can still be considered for appointment on the said post. Learned State counsel further submits that in the instant case, the National Medical Commission has already framed a regulation in the year 2020 regulating the appointments to be made in the medical colleges.

5. As per the State counsel, under the new regulation the Commission requires qualified medical candidates for filling up of the post of Demonstrator in the Microbiology Department, which in other words means the non-medical candidate cannot be considered for the said post in terms of the Regulation of 2020. Thus, the petitioner does not have any legal right conferred upon her under the said factual backdrop and the writ petition deserves to be rejected.
6. Having heard the contentions put forth on either side and on perusal of record, admittedly the appointment of the petitioner was on contractual basis for a period of one year or till regular appointment is made whichever is earlier. This order of appointment itself very clearly shows that the appointment was for a maximum period of one year and not beyond that, as would be further substantiated from the conditions attached to the order of appointment.
7. Further, now that the National Medical Commission having issued the regulation of 2020 regulating the qualification required for appointment to the post of Demonstrator, the petitioner can be considered for fresh appointment under the said Regulation of 2020 only in the event, if the petitioner fulfills the requisite eligibility criteria under the said regulation and for which the petitioner would be free to participate in the

recruitment process as and when the respondents initiate the recruitment process.

8. Considering the specific nature of appointment that the petitioner had, which is purely contractual in nature for a fixed tenure of one year, this Court is of the opinion that no specific direction as such can be granted to the respondents, firstly for the continuity of the employment of the petitioner, secondly for reengaging the petitioner, and thirdly for bypassing the regulations which govern the field as on date for recruitment to the said post of Demonstrator.
9. For the foregoing reason, the writ petition deserves to be and is accordingly rejected.
10. Rejection of the present writ petition in its present form would not preclude the petitioner from challenging the regulation of 2020, if she so wants.

Sd/-
(P. Sam Koshy)
Judge

Ved