

HIGH COURT OF CHHATTISGARH AT BILASPUR**WRIT PETITION (SERVICE) NO. 3596 OF 2021**

- Arpan Alveen Das, S/o Mr. Ajay Kumar Das, aged about 26 years, Presently working as Staff Nurse (Male) at District Dedicated Covid Hospital, Mungeli, District Mungeli (CG). R/o Gokul Nagar, Ward No.4, behind Takshila School, Ghuru, Tifra, District Bilaspur (CG)

... Petitioner**versus**

1. State of Chhattisgarh, through its Secretary, Department of Health and Family Welfare, Mantralaya, Mahanadi Bhawan, Atal Nagar, Raipur, District Raipur (CG)
2. Director, Directorate of Health and Family Welfare, Mantralaya, Mahanadi Bhawan, Atal Nagar, Raipur, District Raipur (CG)
3. Chief Medical and Health Officer, District Mungeli (CG)

... Respondents

For Petitioner	:	Mr. Ishan Verma, Advocate.
For Respondents	:	Mr. Jitendra Pali, Dy. A.G.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****14/07/2021**

1. Grievance of Petitioner seems to be the apprehension of his being removed by another contractual appointee and therefore the Petitioner has prayed for a direction to Respondents to continue with his services till the Department fills up the vacant posts by way of regular appointment.
2. Brief facts of the case, which has led to the filing of the present Writ Petition, are that the Petitioner got appointed as a contractual Staff Nurse vide order dated 30.1.2021. The appointment of Petitioner was pursuant to a due selection process initiated on the basis of an Advertisement that was issued on 25.8.2020. According to Petitioner, he has all the requisite eligibility criteria and the educational qualification for the post of Staff Nurse. That, after his initial appointment for a period of 90 days, his services have again been renewed and he is still working as a contractual Staff Nurse under the Respondents. At this juncture, the Petitioner apprehends that since the Respondents have now vide Advertisement dated 30.1.2021 issued another Advertisement for filling up of the 12 posts of Staff Nurse and in case the said recruitment process is completed, the Respondents may discontinue with the contractual appointment of Petitioner

under the scheme for which the said recruitment was made and he would be replaced.

3. Learned Counsel for Petitioner submits that since the Petitioner has already been selected after undergoing a selection process, there is no reason why his services should be substituted by another contractual appointee. Learned Counsel for Petitioner in this regard refers to a judgment of this Court rendered in the case of **“Manju Gupta & others v. State of Chhattisgarh & others”**, decided on 27.02.2017 in WPS No. 4406/2016, wherein this Court had granted the protection to similarly placed contractual appointees and restrained the Respondents from substituting one set of contractual appointees by another set of contractual appointees. This Court had granted the liberty to Respondent/State for filling up of the posts by way of regular appointment. Petitioner through the present Writ Petition seeks for a similar relief.

4. Per contra, learned Counsel for State on the other hand referring to the Advertisement of January, 2021 submits that the very Advertisement itself reflects that it has been issued for filling up of the vacant contractual posts lying at District Mungeli and all other contentions of Petitioner are all based on apprehension. There is no decision as such taken by Respondents calling for a judicial review of the Advertisement or, for that matter, warranting any interference or issuance of a mandamus at this juncture *qua* the relief which has been sought by Petitioner.

5. Learned Counsel for State further submits that the appointment of Petitioner was under a different scheme altogether whereas the Advertisement now published is under an altogether different scheme. The two services are therefore not connected or related to each other.

6. Having heard the contentions put forth on either side and on perusal of record, admittedly, the Petitioner has been selected on the post of Staff Nurse after undergoing a due process of selection from an Advertisement that was issued, followed by due scrutiny of the eligibility and credentials of Petitioner. It is

also not in dispute that the services of Petitioner also appear to be satisfactory and that is the reason why the services of Petitioner have been extended beyond the initial engagement of 90 days. If that be so, there should not be any reason as to why the services of Petitioner be discontinued at this juncture and he be replaced by another contractual appointee under the scheme under which he was appointed. Though the Advertisement specifically states that it is for the vacant posts of Staff Nurse, it is presumed that the recruitment to be made is in respect of those posts which are still lying vacant under the scheme in which the Advertisement has been issued.

7. In view of above, following the judgment of this Court rendered in the case of “**Manju Gupta**” (supra) and also a catena of other decisions of similar nature that have been passed, the present Writ Petition at this juncture is disposed of holding that the Respondents should not replace the services of Petitioner by another contractual appointee under the scheme under which the Petitioner was appointed, unless the services of Petitioner are dispensed with on account of unsatisfactory work or for any other reason. So far as the Advertisement which has been issued, this Court would not interfere with the same.

8. With the aforesaid direction/observation, the Writ Petition stands disposed of.

sharad

Sd/-
(P. Sam Koshy)
JUDGE