

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 3659 of 2021

1. Anjali D/o Mr. Satish Kumar Aged About 23 Years Presently Working As Staff Nurse (Female) At District Dedicated Covid Hospital Mungeli District Mungeli Chhattisgarh R/o Village Machaha, Post Badara B Block Pathariya, District Mungeli Chhattisgarh.,

---- Petitioner

Versus

1. State Of Chhattisgarh Through Its Secretary, Department Of Health And Family Welfare Mantralaya Mahanadi Bhawan, Atal Nagar Raipur Chhattisgarh.
2. Director Directorate Of Health And Family Welfare, Mantralaya, Mahanadi Bhawan, Atal Nagar Raipur Chhattisgarh.
3. Chief Medical And Health Officer District Mungeli Chhattisgarh

---- Respondents

For Petitioner	: Shri Ishan Verma, Advocate.
For State	: Shri Amrito Das, Addl. A. G.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

16/07/2021

1. The grievance of the petitioner seems to be the apprehension of her being removed by another contractual appointee and thereby the petitioner has prayed for a direction to the respondents to continue with the services of the petitioner till the Department fills up the vacant post by way of regular appointment.
2. The brief facts which has led to the filing of the present writ petition is that the petitioner herein got appointed as a contractual staff nurse vide order dated 30.01.2021. The appointment of the petitioner was pursuant to a due selection process initiated on the basis of an advertisement that was issued on 25.08.2020.

3. According to the petitioner, she has all the requisite eligibility criteria and the educational qualification for the post of staff nurse. It is further contention of the petitioner that after her initial appointment for a period of 90 days, the services of the petitioner has again been renewed and the petitioner 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 30.01.2021 have issued another advertisement for filling up of 12 posts of staff nurse and in case if the said recruitment process is completed, the respondents may discontinue with the contractual appointment of the petitioner under the scheme for which the said recruitment was made and she would be replaced.
4. The counsel for the petitioner submits that since the respondents have already been selected after undergoing a selection process, there is no reason why the services of the petitioner should be substituted by another contractual appointee. The counsel for the petitioner referred to a judgment of this Court in the case of "Manju Gupta & others v. State of Chhattisgarh & others" WPS No. 4406/2016, decided on 27.02.2017 in this regard, wherein this Court had granted protection to similarly placed contractual appointees and had restrained the respondents from substituting one set of contractual appointees by another set of contractual appointees. This Court had granted the liberty to the respondents- State in filling up of the post by way of regular appointment. The petitioner through this petition seeks for a similar relief.

5. Per contra, the learned State counsel 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 the petitioner are all based on apprehension. There is no decision as such taken by the 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 the petitioner.
6. It was the further contention of the State Counsel that the appointment of the 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.
7. 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 the credentials of the petitioner. It is also not in dispute that the services of the petitioner also appears to be satisfactory and that is the reason why the services of the petitioner has been extended beyond the initial engagement of 90 days. If that be so, there should not be any reason, why the services of the petitioner be discontinued at this juncture and she be replaced by another contractual appointee under the scheme under which the petitioner

was appointed. Though the advertisement specifically states that it is for the vacant post 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 the advertisement has been issued.

8. In view of the same, following the judgment of this Court in the case of “Manju Gupta” (supra) and also a catena of other decisions of similar nature that has been passed, the writ petition at this juncture stands disposed of holding that the respondents should not replace the services of the petitioner by another contractual appointee under the scheme under which the petitioner was appointed, unless the services of the petitioner is 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.
9. With the aforesaid observations and directions, the present writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge