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

CWP-8810-2021

Date of Decision:23.04.2021

Lt. Col. (T.S.) Satbir Kaur

...Petitioner

Versus

Union of India and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MR. JUSTICE SANT PARKASH**

Present: Mr. Balbir Singh, Advocate,
for the petitioner.

Mr. Parvesh K. Saini, Senior Panel Counsel,
Union of India.

[The aforesaid presence is being recorded through video conferencing since the proceedings are being conducted in virtual court.]

SANT PARKASH, J.

The present writ petition is directed against the order dated 10.03.2021 (**P-5**) passed by the learned Armed Forces Tribunal, Regional Bench, Chandigarh (for short 'Tribunal'), whereby the request of the petitioner for premature retirement on extreme compassionate grounds has been rejected. Further prayer has been made for directing the respondents to cancel the posting order dated 20.01.2021 (**P-9**) qua the petitioner.

Brief facts of the case are that the petitioner is posted as Operation Theater (OT) Matron with the Command Hospital (WC) Chandimandir since 29.08.2014. Vide letter dated 31.12.1999 (**P-1**), the Director General of Medical Services (Army), New Delhi issued policy letter covering Premature Retirement/Resignation of MNS Officers. As per

the said policy, the petitioner applied for premature retirement on extreme compassionate grounds as her mother was seriously ill. However, the request of the petitioner was not accepted by the Director General Medical Services (Army) on account of organizational interest and the same was conveyed to Western Command HQ vide letter dated 29.05.2015 **(P-3)**. Mother of the petitioner expired on 10.08.2015. Thereafter, the petitioner again applied for premature retirement but the same was again not acceded to vide letter dated 15.02.2017 **(P-4)** on account of organisational interest.

Aggrieved therefrom, the petitioner approached the learned Tribunal by way of Original Application No. OA/2478/2017 for releasing from Army Service due to medical as well as family related problems. However, the said OA was dismissed by the learned Tribunal vide impugned order dated 10.03.2021**(P-5)**.

Hence the present writ petition.

Learned counsel for the petitioner submits that the policy for Premature Retirement/ Resignation of MNS Officers is applicable to the case of the petitioner. He further submits that the petitioner herself has been placed in low medical category due to long duty hours and prolonged standing. He next submits that on account of illness of the petitioner, she would not be able to perform her duties to the entire satisfaction of the seniors. Further it would not be possible for her to take proper care of her minor son as there is no other member in the family due to her nature of duties. He also prays for cancellation of transfer order dated 20.01.2021 **(P-9)**, transferring the petitioner to 155 BH located at Tezpur (Assam).

On the other hand, learned counsel for the respondents submits

that the applicant is a qualified on Class-I course of Operation Theater. He further submits that the strength of the Nursing Officer qualified in Operation Theater Class-I Course is 91 against the sanctioned strength of 175. He next submits that as per the proceedings of the medical board held in 2020, it is not mentioned therein that the petitioner was not physically fit. He also submits that the said policy does not cover the case of the petitioner for granting premature retirement.

This Court has heard the learned counsel for the parties and perused the record carefully.

It is apt to reproduce the relevant portion of the Government of India policy (Letter dated 31.12.1999):-

“Criteria for acceptance

4. xxx xxx xxx xxx xxx
 xxx xxx xxx xxx

(a) xxx xxx xxx xxx xxx

(b) *Extreme compassionate grounds: The request on extreme compassionate grounds will be considered after the facts represented by the nursing officers are verified to the extent possible. The following compassionate grounds will be given preference for acceptance of request for premature retirement/resignation:-*

(i) *Chronic/Long standing ailments of spouse/children requiring constant attendance of the officer.*

(ii) *Looking after mentally retarded children.*

4 (iii) to 4(vi) xxx xxx xxx xxx xxx xxx”

As per the said policy/letter dated 31.12.1999 **(P-1)**, it is crystal clear that an individual is to be released from service on compassionate grounds if her/his husband/wife is under chronic/long standing ailment requiring constant attention of the individual officer or in case the child of

the individual is mentally retarded and the individual is the only person to look after that child. Thus, this Court feels no hesitation to conclude that the case of the petitioner does not fall in any of the conditions mentioned above.

From the perusal of the case file as well as the order passed by the learned Tribunal, it would reveal that the petitioner sought premature retirement on her health condition. As per the proceeding of the medical board held on 12.03.2020, it is not mentioned anywhere that the petitioner is not physically fit to perform her duties. Her general condition has been marked as SHAPE2E1 while it was SHAPE3E1 two years ago in the year 2018 which indicates that her health condition is improving. It would further reveal that the strength of the Nursing Officer qualified in Operation Theater Class I Course is 91 against the sanctioned strength of 175 and the petitioner is qualified in Class I Course of Operation Theater.

So far as the submission of learned counsel for the petitioner with regard to petitioner's transfer at 155 Base Hosptal Tezpur (Assam) is concerned, the same is totally unwarranted. It has been pointed out by the learned counsel for the respondents that the petitioner had been working at the same station, i.e., Command Hospital, Chandimandir on compassionate ground for the last 06 years. The transfer is an incidence of service and at the time of joining the service, the petitioner was well aware of this fact that she could be posted anywhere and now, she can't be allowed to blow hot and cold in the same breathe.

Apart from the above, during the course of arguments, learned counsel for the petitioner has failed to point out any patent illegality or irregularity in the impugned order passed by the learned Tribunal.

For the reasons recorded above, this Court is of the considered view that the instant writ petition is bereft of merit and without any substance. Accordingly, the same stands **dismissed**.

(JASWANT SINGH)
JUDGE

(SANT PARKASH)
JUDGE

23.04.2021

mks

Whether Speaking/Reasoned: YES / NO
Whether Reportable: YES / NO