

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

CWP-15537-2021
Date of Decision:-19.8.2021

Dr. Roosy Aulakh

... Petitioner

Versus

The Union Territory Chandigarh Administration and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA
HON'BLE MR. JUSTICE KARAMJIT SINGH**

Present:- Dr. Roosy Aulakh, petitioner in person.

Mr. Suman Jain, Advocate for respondents No.1 to 4.

Ms. Alka Chatrath, Advocate for respondent No.6.

Mr. Dheeraj Jain, Advocate for respondent No.7.

Mr. Rohit Seth, Advocate for respondents No.8, 11, 12, 14 to 18
and 21.

KARAMJIT SINGH, J.

Case has been heard through video conferencing on account of
COVID-19 Pandemic.

The petitioner has filed this petition under Article 226 of the
Constitution of India praying for issuance of a writ in the nature of

Certiorari, quashing the order dated 31.5.2021 (Annexure P-43) passed by Central Administrative Tribunal (in short 'the Tribunal').

The case of the petitioner is that she is a qualified Doctor having Post-Graduate degree in Pediatrics. The petitioner joined Government Medical College and Hospital, Sector 32, Chandigarh (in short 'GMCH') in the year 2011, being selected by the Union Public Service Commission. As per the petitioner, the private respondents are junior to her. The private respondents approached the Tribunal in O.A. No.60/981/2017 claiming the relief for second step of re-designation under Career Advancement Scheme, 2007 (in short 'CAS') on the ground that such a benefit was already granted to two other faculty members. The petitioner subsequently moved an application No.MA-848-2018 praying for impleadment as a party to aforesaid OA. In the meantime, the officiating Director Principal of GMCH formed a committee including the private respondents who had filed O.A. No.60/981/2017. Faced with this situation, the petitioner filed O.A. No.732 of 2018 challenging the arbitrary implementation of CAS.

The grievance of the petitioner primarily is that the private respondents have been given retrospective promotion benefits vide order dated 9.11.2020 (Annexure P-37), over-&-above the petitioner, despite the fact that all of them are junior to her. The said order of retrospective promotion is also challenged being in violation of the Statutory Recruitment Rules (in short 'Rules of 2003') and in absence of any such vacancies in the cadre. The petitioner challenged order (Annexure P-37) vide MA No.60.

The said miscellaneous application was contested by the Union of India and private respondents. After hearing the counsel for the parties, the Tribunal dismissed MA No.60 vide impugned order dated 31.5.2021, while holding that no case is made out for interim stay. Even the prayer of the petitioner seeking amendment of original application (O.A.) was also declined by the Tribunal.

Aggrieved by the same, the present writ petition has been filed by the petitioner.

We have heard the petitioner, who has appeared before the Court through video conferencing.

The petitioner contended that the order dated 9.11.2020 (Annexure P-37) is totally illegal, whereby Doctors junior to the petitioner were given the benefit of re-designation under CAS, retrospectively on the basis of GMCH “Time Bound Designation (up-gradation) Scheme-2020” (in short ‘Scheme of 2020’), which was notified on 29.10.2020. It is further contended that the aforesaid Notification is also totally illegal. The said Notification was issued without getting approval of Ministry of Health and Family Welfare and Ministry of Home Affairs, which is required as per noting (Annexure P-27) of the Principal Secretary, Medical Education and Research, Chandigarh Administration. The petitioner further argued that the prayer made by her to stay the operation of Annexure (P-37) was wrongly rejected by the Tribunal. The petitioner further contended that *prima facie* case and balance of convenience are there in her favour. The petitioner further made prayer that interim stay be granted in her favour.

The counsel for the respondents contended that there is no illegality or perversity in the impugned order dated 31.5.2021 passed by the Tribunal.

We have considered the rival contentions raised by the parties.

The Tribunal while declining prayer of the petitioner for grant of interim stay observed that the reliefs prayed for by the petitioner are multifarious and not only this, some of the reliefs sought like quashing of all previous orders issued under CAS are vague. The Tribunal further observed that staying of the operation of certain impugned orders would affect as many as over 100 faculty members, most of whom have not been impleaded as party by the petitioner. The Tribunal further observed that no interim relief can be granted which constitutes grant of final relief to the petitioner. Furthermore, the Tribunal while declining interim relief, observed that the pleadings are complete and the case has reached at the stage of arguments and the petitioner has already filed written arguments running over 500 pages.

The Tribunal also rejected the plea of the petitioner seeking amendment of original application (O.A.) with the following observations:-

“We are of the clear opinion that such substantial amendments to O.A. at this stage are not warranted and are not permissible. In fact the amendments are substantial and they involve change in nature and character of relief. They would involve basically redrawing the whole O.A. Such amendments are not justified at this belated stage.”

In the light of the above, it transpires that the original application (O.A.) of the petitioner, pending before the Tribunal, is mature for arguments. This being the position, we are not inclined to interfere in the matter under Article 226 of the Constitution of India.

Consequently, the writ petition is hereby disposed of without going into the merits of the case. The main case is still pending before the Tribunal. We hope and trust that the tribunal shall make endeavour to dispose of the same, expeditiously.

(RAJAN GUPTA)
JUDGE

(KARAMJIT SINGH)
JUDGE

19.08.2021
Gaurav Sorot

Whether reasoned / speaking?

Yes / No

Whether reportable?

Yes / No