

CWP-1625-2023

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(112)

CWP-1625-2023
Date of decision:- 10.05.2023

Suman Kumari

...Petitioner

Versus

The State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Balraj Gujjar, Advocate for the petitioner.

Mr. Pankaj Middha, Addl. A.G., Haryana

SUVIR SEHGAL, J. (Oral)

1. Instant petition has been filed *inter alia* seeking issuance of a writ in the nature of mandamus directing respondent No. 2 to entertain application dated 21.09.2022, Annexure P-2, submitted by the petitioner and to transfer her from Community Health Centre (CHC) Miran, District Bhiwani to CHC, Loharu, District Bhiwani against a vacant post.

2. Counsel for the petitioner submits that by virtue of instructions issued on 14.10.2021, Annexure P-1, Intra District Transfer of contractual employees against vacant posts was permitted. He submits that the petitioner submitted an application, Annexure P-2, for her transfer as she has minor children and aged in-laws to take care of because her husband is employed in the B.S.F. He submits that the application was recommended by the SMO, Community Centre, Miran, but no action has been taken.

3. Upon notice, respondents have filed an affidavit of the Deputy Director (Administration), National Health Mission, Haryana-respondent No.2, wherein it has been submitted that the employees under NHM are appointed on contract basis and their contract period is extended from on year to year basis. Their service is governed by Bye-laws, Annexure R-2, and Clause 12 (b) prohibits transfer except in public interest. It has been further submitted that some policies have been framed keeping in view the hardship faced by the employees of NHM. Still further, the stand of the respondents is that the transfer of employees was re-opened from 01.01.2023 to 15.01.2023 for a period of fifteen days, subject to the fulfillment of the requirements laid down in letter dated 16.12.2022, Annexure R-7. In so far as the transfer case of the petitioner is concerned, it has been submitted that her application was received, but as there is dearth of staff in CHC, Miran, she cannot be transferred till the time an employee is posted in her place.

4. I have heard counsel for the parties.

5. A specific stand has been taken by the respondents in para 9 and 13 of the reply, which deserves to be noticed and is reproduced as under:-

“9. That, the petitioner is working as Staff Nurse under Maternal Health Programme at CHC Miran, Bhiwani, which is a 24x7 facility. As per approval of Mission Director, National Health Mission (as mentioned in para no. 5), the transfer case of Ms. Suman Kumari, was sent to Maternal Health Division for taking their consent before transfer. However, Deputy Director, Maternal Health (MH) stated that “CHC Miran is a

24x7 health facility and no transfer of Staff Nurse from CHC Miran without substitution be done. (Annexure R-8 & Annexure R-9).”

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“13. That, it is pertinent to mention that if in future the petitioner applies for any mutual transfer, it may be considered as per guidelines of this office for mutual transfer vide Letter No. NHM/Admin/HRC-1/2021-22/4469-4491 dated 01.07.2021. Hence, it can be stated that the department is ready to facilitate the transfer of the petitioner in case some mutual transfer/adjustment takes place in consonance with the policy referred in para 2 (a) of this reply which is annexed as (Reference Annexure R-3); and not otherwise.”

- 6. In view of the above reproduced position, direction cannot be issued to the respondents to transfer the petitioner to the place of her choice.
- 7. There is no merit in the petition, which is hereby dismissed.
- 8. However, if the petitioner, so desires, she can avail of the opportunity given to her in para 13 of the reply reproduced above.

(SUVIR SEHGAL)
JUDGE

10.05.2023
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No