

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

137

CWP-14157-2023

Date of Decision: 07.07.2023

Dr. Sneh Lata

.... Petitioner

Versus

Baba Farid University of Health Sciences, Faridkot
and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present: Mr. Davinder Singh Khurana, Advocate for the petitioner.

Mr. Sahil Kumar, Advocate, for
Mr. Nitin Kaushal, Advocate for the respondents.

SANJEEV PRAKASH SHARMA, J (ORAL)

1. This is a civil writ petition filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing the impugned order dated 02.09.2022 (Annexure P-4) whereby the petitioner has been repatriated as Emergency Medical Officer.

2. Learned counsel for the petitioner submits that the petitioner is praying for re-designation as Assistant Professor in the subject of Microbiology and she has been claimed as a Senior Resident/Senior Tutor on the post for a long period of three years and has also possessed the requisite qualifications for holding the post of Assistant Professor. She preferred a writ petition before this Court earlier i.e. CWP-21713-2022 wherein this Court passed an order directing the respondents to decide her representation in accordance with law. The respondents considered the representation made by the petitioner and by passing a speaking order, rejected her request for appointment/re-designation as Assistant Professor in the subject of Microbiology.

3. Learned counsel for the petitioner further submits that the petitioner has a right to be re-designated on the said post as she was initially appointed in the Medical College itself as Emergency Medical Officer whereafter she has also submitted a bond to serve the Medical University for a period of five years after completion of MD/MS degree. She has pursued the MD/MS degree from 01.06.2015 to 31.05.2018 and thereafter she applied for the post of Senior Resident/Senior Tutor and has already worked on the said post upto 2022. In these circumstances, she should be re-designated as Assistant Professor as she possesses all the qualifications for the said post.

4. Learned counsel for the petitioner also relies upon the observations made by the Supreme Court where the Supreme Court has expressed that the precious super specialty seats are going to waste and there is a shortage of super specialty doctors also.

5. I have heard learned counsel for the petitioner at length and have considered the submissions.

6. The Hon'ble Apex Court while laying law in the case of ***Kevin Joy and others Vs. Government of India and others in Writ Petition (Civil)-106-2023*** was dealing with the various admissions to the post graduate and super specialty and has directed for filling up the vacant seats as a one time measure and recognized students to the various departments including the department of Microbiology, vide order dated 13.04.2023.

7. The aforesaid order has no relevance in the present issue involved in the present petition. In the present case, the petitioner is assailing her repatriation to her parent post of Emergency Medical Officer and admittedly, the petitioner was appointed on the post of Emergency Medical Officer on 11.07.2009 whereafter she was granted extraordinary leave and during her service, allowed to pursue MD/MS course in the subject of

Microbiology for three years duration from 01.06.2015 to 31.05.2018. Thereafter, she applied for the post of Senior Resident/Senior Tutor. In response to the advertisement, she was selected and she completed her senior residency on 25.06.2022. On her completion of Senior Residency, she was repatriated to the substantive post of Emergency Medical Officer, vide order dated 02.09.2022. She challenged the said action by filing writ petition before this Court wherein this Court passed orders (supra). The University has examined her case and found that the post held by the petitioner as a Senior Resident is a tenure post and does not create any right in her favour for appointment to the post of Assistant Professor. The post of Assistant Professor is required to be filled as per the rules framed by the Medical Council of India and adopted by the NMC. The petitioner has therefore, been denied for re-designation on the post of Assistant Professor.

8 In view of the above, the post of Assistant Professor, Microbiology which is available, be filled up with the meritorious candidates by open selection. The petitioner who has passed the required minimum qualification essential for the post, is always free to apply for the said post. However, praying for re-designation for the post of Assistant Professor, Microbiology is nothing but asking for back door entry on the said post which cannot be allowed. The petitioner is granted liberty to apply from open selection. The request for re-designation for the post of Assistant Professor is found to be rightly rejected by the University.

9. Keeping in view the above, no interference is called for by this Court to interfere in the present petition and accordingly, the same is dismissed.

(SANJEEV PRAKASH SHARMA)
JUDGE

07.07.2023

D.Bansal

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No