

**105-1 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

1.CWP-24718-2015 (O&M)

Dr. Sheela Devi

....Petitioner

Versus

State of Punjab and another

..Respondents

2.CWP-26523-2015 (O&M)

Dr. Sheela Devi

....Petitioner

Versus

State of Punjab and another

..Respondents

Date of decision: 21.02.2023

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Rupinder Khosla, Sr. Advocate with
Mr. Aman Sharma, Advocate for the petitioner

Mr. R.S.Pandher, Sr.DAG, Punjab

ANIL KSHETARPAL, J (Oral)

1. By this order, two connected civil writ petitions i.e CWP-24718-2015 and CWP-26523-2015 ,which have been filed by the same petitioner, shall stand disposed of.

2. On 28.11.2015, the following order was passed by this

Court:-

“The petitioner is amongst 11 Medical Officers in PCMS Class-I, who were promoted as Senior Medical Officers by order dated October 9, 2015. As per the orders, the promotion was to take immediate effect. The petitioner was in second extension after retirement. However, she made a request to the Government for extending her joining time. The request was accepted by the Minister Incharge and the Secretary, Government of Punjab, Health and

Family Welfare Department issued orders dated 30.10.2015 granting extension upto 8.11.2015, but having accepted the request of the petitioner against being posted to CHC Bhikhi, District Mansa, she can only be adjusted near about Chandigarh in place of one Darshan Singh, Senior Medical Officer, posted at CHC Nandpur Kalod, District Fatehgarh Sahib, who is due to retire on 30.11.2015 to replace him against vacancy created by his retirement and therefore, para 4 of the order records that it will be applicable from 1.12.2015. Though there is some confusion of words in the order but the fact remains that the promotion and the acceptance of the request both took place prior to 30.10.2015 whereafter promotions during extension period were done away with by the Second Amendment, 2015. In these circumstances, Mr. Khosla, learned Senior counsel contends that rights have crystalized prior to 30.10.2015.

Notice of motion.

Notice re: interim orders.

On the asking of Court, Mr. Inqulab Nagpal, AAG, Punjab, accepts notice on behalf of the respondents and waives service on them. Mr. Aman Sharma, appearing with Mr. Rupinder Khosla, will supply three sets of paper book to Mr. Nagpal during the course of the day. Submits that similar matters are coming up for hearing on 8.12.2015.

Adjourned to 8.12.2015.

Reply, if any, be filed on or before the next date of hearing.

In the meanwhile, the petitioner will be allowed to join the promotional post on 1.12.2015, subject to result of the writ petition and accordingly, furnishing of option will be kept in abeyance till the next date of hearing.

To be heard with CWP No.24265 of 2015.

Order dasti."

3. Admittedly, the petitioner was permitted to join as a Senior Medical Officer (promoted) post at Nandpur Kalod on 01.12.2015. She after completing the two years extension, retired on 29.02.2016.

4. In CWP-26523-2015 the petitioner challenges the orders dated 26.11.2015, 08.12.2015 and 15.12.2015 whereby she has been debarred from promotion for a period of two years.

5. In substance, the petitioner claims that she was promoted on 09.10.2015 and it was on her request, the period of her joining was

extended by the competent authority upto 08.11.2015. In the meantime, she continued to work as a Medical Officer at Kharar. At the same time, on 30.10.2015, there was an amendment in the service rules which provided that an employee who is granted extension after attaining the normal age of superannuation, shall not be entitled to promotion. The official respondents thus debarred the petitioner from joining as she did not join within the period of 30 days from the date of her promotion. As already noticed, subsequently, pursuant to an interim order passed by the Court, the petitioner was permitted to join as a Senior Medical Officer and she continued to discharge her responsibilities as such, upto 29.02.2016 till she retired.

6. Hence, there is no dispute with regard to the correctness of the order by which she was promoted by the authority. Learned counsel representing the petitioner contends that though she discharged her responsibilities as a Senior Medical Officer, but she has not been paid the salary as well as the pensionary benefits she deserved for discharging functions as a Senior Medical Officer.

7. On the other hand, an additional affidavit dated 21.02.2023 has been filed by the respondents. Para 7 thereof reads as under:-

“7. That it is pertinent to mention here that the petitioner got retired from service on 29.02.2016 as Senior Medical Officer (SMO) and all the pensionary benefits have already been given to the petitioner as Senior Medical Officer. There are no dues left with the department to be payable to the petitioner and nothing is to be recovered by the department from the petitioner.”

8. In view of the aforesaid stand, the writ petitions are disposed of by directing the petitioner to file a representation before the competent

authority for the settlement of her accounts. If she files a representation in this regard, the same shall be disposed of by the concerned authority, within a period of one month, from the date of its submission, positively.

9. In view of the aforesaid facts and discussion, the order (Annexure P-9) by which the petitioner was debarred for a period of two years, shall cease to have operated.

10. Disposed of.

11. All the pending miscellaneous applications, if any, are also disposed of.

21.02.2023

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE