

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

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CWP-26752-2018 (O&M)
Date of Decision :01.02.2024

Seema Devi

...Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. R.K. Malik, Senior Advocate with
Mr. Shivam Malik, Advocate for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

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Harsimran Singh Sethi, J. (Oral)

1. In the present petition, grievance of the petitioner is that the respondents had issued an advertisement dated 06.01.2014 (Annexure P/1) for appointment to the post Lab Technician in the National Health Mission Scheme (in short 'NHM Scheme') and the petitioner competed for the said post and keeping in view the merit obtained by her, she was placed at Sr. No.3 in the merit list and was given appointment.

2. Learned Senior counsel for the petitioner submits that though, the petitioner was selected in the NHM Scheme and initially appointed under the said scheme but later on she was transferred in Mukhyamantri Muft Ilaz Yojana (MMIY), which action of the respondents is totally arbitrary and illegal.

3. Learned Senior counsel for the petitioner submits that prejudice which is being caused to the petitioner is that the candidates, who have been appointed on the post of Lab Technician and were posted in the NHM Scheme are getting higher salary as compared to the petitioner as the pay scale of the employees working in NHM Scheme is higher than the employees working in Mukhyamantri Muft Ilaz Yojana (MMIY). Learned Senior counsel for the petitioner further submits that even if, anyone was to be transferred in the Mukhyamantri Muft Ilaz Yojana (MMIY), the same should have been done on the basis of the merit obtained by the candidates and the candidate, who was lower in merit, should have been posted on the post in Mukhyamantri Muft Ilaz Yojana (MMIY), which is having lesser pay scale as compared to the pay scale of Lab Technician.

4. In the reply filed by the respondents, the respondents have conceded the fact that petitioner was selected as Lab Technician in the NHM Scheme. It has been further mentioned in the reply that as all the Lab Technicians selected vide annexure P/3 could not be adjusted in the NHM Scheme therefore, in order to adjust some of them, they were posted in Mukhyamantri Muft Ilaz Yojana (MMIY) and hence, the petitioner was also posted in the Mukhyamantri Muft Ilaz Yojana (MMIY).

5. I have heard learned counsel for the parties and have gone through the record with their able assistance.

6. Once, the posts were advertised in the NHM Scheme, the respondents are under an obligation to appoint the selected candidates in the said scheme only. Further, in the appointment order dated 08.01.2014 (Annexure P/2) of the petitioner, it has been mentioned that she has been appointed as Lab Technician in the NHM scheme hence, once the

appointment was given under the NHM scheme, action of the respondents in transferring the petitioner to Mukhyamantri Muft Ilaz Yojana (MMIY) and that too without seeking any option from her is not justifiable as such action on the part of respondents is causing prejudice to the petitioner.

7. The grievance raised by the petitioner is that the candidates who were lower in merit than the petitioner but have been posted in NHM Scheme are getting higher salary as compared to the petitioner. Once the petitioner was appointed in NHM Scheme and was higher in merit, even if some of the candidates were to be posted in Mukhyamantri Muft Ilaz Yojana (MMIY), same should have been on the basis of merit after getting due consent. Once the candidates, who were lower in merit than the petitioner are getting higher pay as compared to the petitioner while working in NHM scheme, respondents are under an obligation to adjust the petitioner according to her merit as the candidates selected in the same selection process and were lower in merit, cannot be adjusted on the post in the scheme, which is financially better than the one where the candidate higher in merit has been posted.

8. Keeping in view the above as learned Senior counsel for the petitioner submits that the petitioner will be satisfied in case she is prospectively allowed to join on the post of Lab Technician in NHM Scheme, the respondents are directed that petitioner be adjusted in NMH Scheme against the post of Lab Technician prospectively and whatever benefits will be entitled to the employees working under the NHM Scheme, will be extended to the petitioner by treating her period spent on Mukhyamantri Muft Ilaz Yojana (MMIY) to be the period spent in the NHM Scheme.

9. Let the present order be complied with within a period of 08 weeks from the date of receipt of copy of this order.
10. Present petition stands allowed in above terms.
11. Civil Miscellaneous application pending if any is also disposed of.

February 01, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

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