

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.2757 of 2021.

Date of decision: 03.05.2021.

Dr. Vishal Koundal

.....Petitioner.

Versus

State of Himachal Pradesh and others

.....Respondents.

Coram

The Hon'ble Mr. Justice Tarlok Singh Chauhan, Judge.

The Hon'ble Mr. Justice Chander Bhusan Barowalia, Judge.

Whether approved for reporting?¹ No

For the Petitioner : Mr. Anubhav Chopra, Advocate.

For the Respondents: Mr. Ashok Sharma, Advocate General with Mr. Vikas Rathore, Additional Advocate General, Mr. J.S. Guleria and Mr. Bhupinder Thakur, Deputy Advocate Generals, for respondents No.1 to 3/State.

(Through Video Conferencing)

Tarlok Singh Chauhan, Judge (Oral)

This is rather an unfortunate case where a doctor, who has been ordered to be posted at a Covid Make Shift Hospital, on deputation basis, has instead of joining and protecting precious human lives, has filed the instant writ petition assailing the order of deputation.

¹**Whether the reporters of the local papers may be allowed to see the Judgment?Yes**

2. The petitioner belongs to District Kangra and since 2015 is in the said District. Initially, the petitioner completed his Post Graduation from RPGMC, Tanda, for the academic session 2015-2018.

3. Thereafter, in the year 2018, the petitioner was appointed as a Medical Officer (Anesthesia) at Civil Hospital, Dehra and vide notification dated 11.11.2020, was ordered to be transferred on deputation basis to Jawahar Lal Nehru Medical College and Hospital, Chamba. But, according to the petitioner, the deputation order was cancelled on the basis of a representation made by him. Now, vide order dated 27.04.2021, the petitioner has been ordered to be transferred on deputation basis to the Make Shift Hospital, Palakwah, District Una, H.P.

4. The only ground for assailing the order of deputation is that the petitioner in the year 2018 had met with an accident and remained hospitalized for a period of five months. The petitioner suffered Lumber, Spine and Sacrum injuries in the said accident and would, therefore, be unable to serve at the place of deputation.

5. We, however, find no merit in such contention as there is no contemporaneous records to show that the

petitioner is in any manner incapacitated to serve at the transferred station. If the petitioner is fit enough to render his services at Civil Hospital, Dehra, which incidentally, happens to be his Home Tehsil, we see no reason why he cannot serve at the Covid Make Shift Hospital, Palakwah, District Una.

6. We gather an impression that the petitioner is trying to escape from duties and responsibilities that have now been assigned to him. We are quite sure that the petitioner by claiming himself to be a front line worker against the fight of Covid-19 must have got himself vaccinated out of turn, but is now shirking from his responsibility.

7. The petitioner has failed to realize that the health workers in over-crowded hospitals, the policemen and other front line workers are already beset with overwhelming load of Covid-19 patients which is likely to worsen in future. These workers are exhausted from almost an year of restless fighting against the pandemic. The State currently is fighting the grimmest battle against Covid-19 which is nothing short of a disaster culminating in mass deaths and, therefore, it is imperative that the front line

workers are made to work on rotation basis or else the health system is likely to collapse with the sudden and drastic surge in Covid-19 cases. ◇

8. A government servant is a holder of a status and that cannot be made depending on his will. Once, a person accepts the status as per rules, he no longer remains a simple individual only, but an integral part of Governance and at times even in the face of the Government. In the garb of self-unwillingness to serve, the petitioner cannot be permitted to shirk from his duties and responsibilities. This tendency has to be dealt and curbed with an iron fist.

9. In view of the aforesaid discussion and for the reasons stated above, we find no merit in this petition and the same is accordingly dismissed *in limine* along with pending applications, if any.

(Tarlok Singh Chauhan)
Judge

(Chander Bhusan Barowalia)
Judge

3rd May, 2021.
(krt/raman)