

Tribunal Application  
Judgement on 30.4.2010  
W.P.S.T. 188 of 2010.

Points:

**Service:** Person not having specialized qualification- Employer have allowed him to serve earlier in that branch- Whether he can ask for serving in that branch – Service Law

Facts:

The petitioner herein was appointed as Medical Officer and allowed to work in the department of Anaesthesiology in the Gandhi Memorial Hospital, Kalyani in the recent past. The said petitioner was allowed to work in the department of Anaesthesiology S. S. K. M. Hospital on the earlier occasion. The Deputy Secretary, Government of West Bengal specifically mentioned in the transfer order that the service of the petitioner may be utilised in Anaesthesia. The concerned authority of the Naihati S. G. Hospital refused to utilise the service of the petitioner in the department of Anaesthesiology.

Held:

The petitioner herein did not possess any specialised degree in Anaesthesiology and as Medical Officer, she was only allowed to work on the earlier occasions in the department of Anaesthesiology. The competent authority of the Department of a hospital is entitled to decide how the service of a general Doctor can be best utilised for the benefit of the patients. Furthermore, from the terms of appointment of the petitioner dated 29th December, 1993, the petitioner is required to perform all such duties as may be assigned to her from time to time besides the duties of the post in which she was appointed.

Para-7

Mr. Anil Kr. Jana,  
Mr. Bimal Ranjan Talukdar.

...For the Petitioner.  
Ms. Chameli Majumder,  
Mr. Swarup Pal.  
...For the State.

The Court:

This writ petition has been filed challenging the order dated 8th March, 2010 passed by the learned West Bengal Administrative Tribunal in case number O.A.9589 of 2008 whereby and whereunder the said learned Tribunal disposed of the application filed by the petitioner herein without interfering with the impugned order of transfer issued by the department of Health and Family Welfare, Government of West Bengal.

2) The learned Advocate of the petitioner submits that the Naihati S. G. Hospital Authority is wrongfully and illegally refusing to allow the said petitioner to work as Anaesthetist in the said hospital.

3) From the records, we find that the petitioner herein was appointed as Medical Officer and allowed to work in the department of Anaesthesiology in the Gandhi Memorial Hospital, Kalyani in the recent past.

4) The learned Advocate of the petitioner also claimed that the said petitioner was allowed to work in the department of Anaesthesiology S. S. K. M. Hospital on the earlier occasion.

5) From the impugned transfer order dated 28th January, 2008, we find that the Deputy Secretary, Government of West Bengal specifically mentioned that the service of the petitioner may be utilised in Anaesthesia.

6) Referring to the said order of transfer, the learned Advocate of the petitioner submits that the concerned authority of the Naihati S. G. Hospital

cannot refuse to utilise the service of the petitioner in the department of Anaesthesiology.

7) Going through the impugned judgment and order passed by the learned Tribunal and considering the other relevant records, we find that the petitioner herein did not possess any specialised degree in Anaesthesiology and as Medical Officer, she was only allowed to work on the earlier occasions in the department of Anaesthesiology. The competent authority of the Department of a hospital is entitled to decide how the service of a general Doctor can be best utilised for the benefit of the patients. Furthermore, from the terms of appointment of the petitioner dated 29th December, 1993, we find that the petitioner is required to perform all such duties as may be assigned to her from time to time besides the duties of the post in which she was appointed.

8) In the present case, the petitioner herein has been admittedly, allowed to discharge her duties in the Naihati S. G. Hospital. The petitioner herein cannot claim that her service must be utilised in Anaesthesia specially when she did not possess any specialisation in Anaesthesiology and was also not appointed as Anaesthesist.

9) However, as the competent authority of the Government of West Bengal asked the concerned hospital to utilise the service of the petitioner in Anesthesia, it is expected that the concerned authority of the said Naihati S. G. Hospital will utilise the service of the petitioner in Anaesthesia as and when required.

10) Mrs. Chameli Majumnder, learned Advocate representing the State respondents also submits before this Court that the competent authority of the Naihat S. G. Hospital will utilise the service of the petitioner in Anaesthesia as and when same would be required.

11) For the reasons discussed hereinabove, we do not find any error and/or infirmity in the decision of the learned Tribunal and, therefore, we refuse to interfere with the same.

12) This writ petition, therefore, stands dismissed as we do not find any merit in the same.

13) In the facts of the present case, there will be no order as to costs.

Urgent xerox certified copy of this order, if applied for, shall be given to the appearing parties, as early as possible.

(Pranab Kumar Chattopadhyay, J.)

(Syamal Kanti Chakrabarti, J.)