

**(2003) 02 AHC CK 0060****Allahabad High Court****Case No:** C.M.W.P. No. 45830 of 2002

Sarita Saxena

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

**Date of Decision:** Feb. 14, 2003**Acts Referred:**

- Constitution of India, 1950 - Article 226

**Citation:** (2003) 2 AWC 1108**Hon'ble Judges:** Anjani Kumar, J**Bench:** Single Bench**Advocate:** Manu Saxena, for the Appellant; R.K. Mishra and S.C., for the Respondent**Final Decision:** Allowed**Judgement**

Anjani Kumar, J.

This writ petition under Article 226 of the Constitution of India, is filed by the petitioner, Sarita Saxena (Smt.), against the order impugned in the present writ petition, namely, the order dated 16th October, 2002, whereby the petitioner, Sarita Saxena (Smt.), who is working as Woman Basic Health Worker in Primary Health Centre, P.P.C., Mahila Chikitsalaya, Bareilly has been transferred.

2. Learned counsel for the petitioner has brought my attention to the recital in the impugned order, a copy whereof is Annexure-1 to the writ petition which reads as under :

^{Aekuuu; jkT; ea=h isVksfy;e ,oa izkfrd xSl vkSj lalnh; dk;Z] Hkkjr ljdkj "kkL=h Hkou] ubZ fnYyh ds i= fnukd 5-10-2002 esa fn;s x;s funsZ"kksZ ds vuqikyu esa vkns"k la[;k 560@2002&03 fnukd 11-7-2002 ftlds }kjk Jherh jUtuk IDIsuk] LokLF; dk;Zd=h ih- ih- lh- efgyk fpfdRlky;] cjsyh dks Lohr in ls vf/kd dk;Zjr n"kkZrs gq, lek;kstu izkFkfed LokLF; dsUnz jkeuxj tuin cjsyh eas fjDr dk;Zd=h efgyk ds in ij LFkkukUrfjr fd;k x;k gS dks rRdkfyd izHkko ls fujLr fd;k tkrk gS\*\*

3. This Court vide its order dated 24th October, 2002 passed an order that as an interim measure, it is provided that the operation of the impugned order dated 16.10.2002 shall remain stayed.

4. Pursuant to the aforesaid interim order, the petitioner continued to function on the post where she was working before passing of the order dated 16th October, 2002.

5. The contesting respondent, Smt. Ranjana Saxena, earlier approached this Court by means of Civil Misc. Writ Petition No. 28634 of 2002 against her transfer order from P. P. Centre, Mahila Chikitsalaya, Bareilly to Primary Health Centre, Ram Nagar, Bareilly on the ground that Sarita Saxena, the respondent No. 4 in that petition and petitioner in the present writ petition, is working in excess at the Centre. The writ petition filed by the contesting respondent, Smt. Ranjana Saxena was dismissed by the Court fide judgment and order dated 25th July, 2002. Thereafter, Smt. Ranjana Saxena preferred a Special Appeal No. 831 of 2002 against the judgment and order of the learned single Judge dated 25th July, 2002 passed in Civil Misc. Writ Petition No. 28634 of 2002. The aforesaid special appeal filed by Smt. Ranjana Saxena was, ultimately, dismissed by the Division Bench of this Court vide judgment and order dated 14th August, 2002.

6. It appears that after having failed in her attempt to get any relief from this Court regarding her transfer order dated 28th June, 2002, Smt. Ranjana Saxena obtained resort to the good offices of the aforesaid State Minister for Petroleum and Natural Gas and Parliamentary Affairs, Government of India, who by his letter dated 5th October, 2002, as recited in the impugned order, directed the Chief Medical Superintendent, Mahila Chikitsalaya, Bareilly that Ranjana Saxena be retained at P.P.C. Mahila Chikitsalaya, Bareilly and the present petitioner be directed to hand over the charge to Smt. Ranjana Saxena and proceed on her transfer place which order is under challenge as already stated, by means of this writ petition as well as the consequential order passed by the Chief Medical Officer, Bareilly, dated 11th July, 2002.

7. From the facts and circumstances of the case, it is abundantly clear that the aforesaid impugned order transferring the petitioner was passed because of the Interference of the State Minister for Petroleum and Natural Gas and Parliamentary Affairs, Government of India and this fact has not been denied in the counter-affidavit.

8. Learned counsel for the petitioner has relied upon the decision of the Division Bench of this Court reported in Lokesh Kumar, P.C.S. Vs. State of U.P. and others, (Writ Petition No. 628 (S/B) of 1997, decided on September 5, 1997), wherein in the similar circumstances on the direction issued by the then Chief Minister of Uttar Pradesh, Mayawati dated 16th May, 1997 addressed to the Minister concerned, the petitioner was transferred, which was quashed by the Division Bench of this Court.

Learned counsel for the petitioner has further relied upon the decision in Jagvir Singh Talan v. State of U. P. and Ors. 1997 (2) ESC 762 , wherein in similar circumstances, the Division Bench of this Court had quashed the order which was passed on political consideration. Another decision relied upon by the learned counsel for the petitioner is in Sheo Kumar Sharma v. Basic Shiksha Adhikari, Kanpur Dehat and Ors. 1991 (1) UPLBEC 690 and another decision of the learned single Judge in Pawan Kumar Srivastava Vs. U.P. State Electricity Board and Others , Learned counsel for the petitioner has further relied upon yet another decision of the Division Bench of this Court in K.P. Singh Vs. Secretary, Co-operative Department, State of U.P. and others, in support of his contention.

9. In view of what has been stated above and in view of the law laid down by this Court, cited above, the order impugned in the present writ petition, i.e., the order passed on the recommendation of the Minister concerned dated 16th October, 2002 and the order dated 11th July, 2002 (Annexures "1" and "3" to the writ petition) deserve to be quashed.

10. In view of what has been stated above, this writ petition succeeds and is allowed. The order passed on the recommendation of the Minister concerned dated 16th October, 2002 and the order dated 11th July, 2002 (Annexures "1" and "3" to the writ petition) are quashed. However, there is no order as to costs.