

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 2855 of 2015

Smt. Janki Upadhyay D/o Bela Upadhyay, Aged About 30 years Working As A.N.M. At Community Health Center, Rajpur, District Balrampur - Ramanujganj, Civil & Revenue District Surguja (Chhattisgarh) R/o Village Ravindra Nagar, Post - Ajab Nagar, District Surajpur Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through : The Secretary; Health Services Deptt. Mahanadi Bhawan, New Raipur (Chhattisgarh)
2. The Director Health Services Department Raipur, District - Raipur (Chhattisgarh)
3. The Collector Balrampur- Ramanujganj, Distt. Balrampur (Chhattisgarh)
4. Chief Medical Officer Balrampur, District - Balrampur (Chhattisgarh)

---- Respondent

For Petitioner	: Shri Bhupendra Singh, Advocate.
For Respondent	: Shri Shashank Thakur, G.A. for the State.

Hon'ble Shri Justice Pritinker Diwaker

Order On Board

07/08/2015

Challenge in the present petition is to the order dated 20.07.2015 (Annexure P-1) passed by respondent No.3 whereby the petitioner who is working as A.N.M. has been transferred from Community Health Centre, Rajpur to Sub Health Centre, Sabag, Kusmi, district Surguja.

Counsel for the petitioner submits that the petitioner is suffering from serious ailment and was in coma for about three months and was on

continuous leave. He submits that considering the pathetic condition of the petitioner the transfer order be quashed. Alternatively it has been prayed that the petitioner will make representation to the authority under Clause 4 of the transfer policy but till her representation is decided the transfer order be stayed.

Opposing the submission as made by the petitioner it has been argued by the State counsel that from the medical documents filed by the petitioner it is not clear that she is suffering from any such serious ailment. The documents does not establish the fact that she was in coma for three months. He however has no objection if the petitioner makes any such representation and the same is being decided in accordance with law but no protective order be passed in favour of the petitioner.

Taking a consistent view with regard to the transfer of Government servants it has been held by the Apex Court in series of cases, some of them being in **Shilpi Bose (Mrs.) and Others Vs. State of Bihar and Others** reported in **1991 Supp. (2) SCC 659**; **Mohd. Masood Ahmad Vs. State of U.P. and Others** reported in **2007 (8) SCC 150**; **Union of India and Others Vs. S.L.Abbas** reported in **(1993)4 SCC 357**; **State of M.P. and Another Vs. S.S.Kourab and Others** reported in **1995(3) SCC 270**; **Union of India & Others Vs. Debanath and Another** reported in **2004 (4) SCC 245** and **E.P.Royappa Vs. State of Tamil Nadu & Another** reported in **1974 (4) SCC 3**, that the transfer is an exigency of service and while transferring the incumbent the Government is not required to specify as to what was the exigency which propelled the authority to do so. The Apex Court went on to hold that a Government servant holding a transferable post has no vested right to get stuck to a particular place of his own choice. Of course, the transfer orders should not be resorted to mala fides or any grudge nurtured against a government servant and if ultimately it is established that the transfer of the incumbent from one place to the other is actuated by some extraneous consideration, the legal remedy is always available to him. Further stress has been laid in holding that generally the Courts should not go into the expediency of posting an officer at a particular place because if the day to day orders issued by the government or its sub ordinate authorities are subjected to judicial interference, it would lead to a complete chaos in the administration which would not be conducive to the public interest. While dealing with the transfer matters it has been reiterated by the Apex Court that the Courts or Tribunals are not the appellate forums to decide such matters and the focus should always be on the smooth discharge of administrative functions.

I find no merits in the petition, the same is accordingly dismissed. However the petitioner would be at liberty to file representation before the competent authority and in case any such representation is made, it is expected from the competent authority to decide the same after considering all the aspects of the case, in particular if the petitioner is suffering from any serious ailment or not.

Sd/-
Pritinker Diwaker
Judge