

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WP(S) No. 1090 of 2015

Smt. Renu Paul, D/o H. Paul, aged around 56 years, presently posted as Staff Nurse, at Community Health Centre Kota, District Bilaspur, R/o Balaji Complex, Naka Chowk Main Road Kargi Road Kota, P.O. & District Bilaspur (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through The Secretary, Department of Health & Family Welfare, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur (C.G.)
2. The Under Secretary, State of Chhattisgarh, Department of Health & Family Welfare, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur (C.G.)
3. The Director Health & Family Welfare, Raipur (C.G.)
4. The Collector, Bilaspur District Bilaspur (C.G.)
5. The Chief Medical & Health Officer, Bilaspur, District Bilaspur (C.G.)
6. The Block Medical Officer, Community Health Centre Kota, District Bilaspur (C.G.)

---- Respondents

For Petitioner	:	Shri Mateen Siddiqui, counsel
For Respondent/State	:	Shri Ashutosh Pandey, PL

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

20/04/2015

Heard learned counsel for the parties.

1. Challenge in this petition is to the order dated 30.06.2014 (Annexure-P-1), by which the petitioner has been transferred from Community Health Center, Kota, Bilaspur to the Community Health Center,

Khadgawan, Block Chirmiri, District Koriya, on administrative exigency.

2. Learned counsel appearing for the petitioner would submit that without there being any administrative exigency, the petitioner has been transferred by the impugned order in an illegal and arbitrary manner. On receipt of the transfer order, the petitioner enquired about the reasons behind her transfer, on which it was revealed that on the basis of a complaint the petitioner has been transferred. However, subsequently it was discovered that the Block Medical Officer, Kota made a report before the Station House Officer, Kota stating that on 12.06.2014 a complaint was made using the forged seal and signature and made the complaint against the petitioner and other employees only to tarnish the image of the office of the Block Medical Officer, Kota. According to the petitioner, the petitioner is sincere and hard worker and never earned any adverse remarks from the authorities or from the general public, therefore, the impugned order is bad in law and deserves to be quashed.
3. On the other hand, learned counsel for the State would support the impugned transfer order.
4. It is a trite law that transfer/posting is an incidence of service. The Court should not interfere with the transfer/posting order unless there is malice, infringement of statutory rules and regulations. The employees may be posted anywhere at the instance of the employer in public interest and administrative exigency. Further, it is for the Government to post another person if any vacancy arises on account of transfer/posting of an employee. (See *E.P.*

*Royappa v. State of Tamil Nadu and another*¹, *Shilpi Bose (Mrs.) and others v. State of Bihar & another*², *State of M.P. and another v. S.S. Kourv and others*³, *Mohd. Masood Ahmad v. State of U.P. & others*⁴, *Chief Commercial Manager, South Central Railway, Secunderabad & others v. G. Ratnam & others*⁵ and *Airports Authority of India v. Rajeev Ratan Pandey & others*⁶).

5. Therefore, considering the limited scope of interference under Article 226 of the Constitution of India and for the fact that the petitioner is raising issues concerning violation of policy/guidelines as well as his/her own personal difficulties, the writ petition is disposed of reserving liberty to the petitioner to file a fresh representation before the competent authority within a period of 4 weeks from today and in turn, the competent authority shall consider and decide the same as early as possible, preferably within a period of 8 weeks, in accordance with law and on its own merits.
6. For a period of 3 months, the effect and operation of the impugned transfer order, in respect of the petitioner, shall remain stayed.
7. It is made clear that this Court has not expressed any opinion on the merits of the case and the respondent authorities shall decide the representation of the petitioner on its own merits strictly in accordance with law, without treating any observation made in this order, as opinion on the merits of the case.

JUDGE

Nirala

1 1974 (4) SCC 3
2 (1991) Supp 2 SCC 659
3 (1995) 3 SCC 270
4 (2007) 8 SCC 150
5 (2007) 8 SCC 212
6 (2009) 8 SCC 337