

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 1441 of 2015

Smt. Anuradha Poyam W/o Shri Mahesh
Ram Poyam Aged About 28 years
Occupation- Assistant Veterinary Field
Officer, Artificial Semination (Fertility)
Centre Bachel P.S.- Bachel Dist-
Dantewada (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary,
Department of Animal Husbandary
Development Mantralaya, Mahanadi
Bhawan Naya Raipur, P.S.- Abhanpur
District Raipur (Chhattisgarh)
2. Collector, Dantewada District-
Dantewada (Chhattisgarh)
3. Deputy Director, Veterinary Services,
Dantewda P.S. Dantewada District
Dantewada (Chhattisgarh)

---- Respondents

For Petitioner	:- Ms. Deepali Pandey, Advocate
For Respondent	:- Shri Shashank Thakur, G.A.

Hon'ble Shri Justice P. Sam Koshy

Order On Board

24/04/2015

1. The grievances of the petitioner in the instant writ petition is that though vide Annexure P/1 dated 15.07.2014, the petitioner was transferred from Artificial Semination (fertility) Centre Bachel District Dantewada to Chief Village Unit Matwari Durg, but without any justified reason she is not being relieved.
2. Counsel for the petitioner submits though there was an order of

transfer in her favour but the said order of transfer has not been given effect to till date and the petitioner continues to work at the place at District Dantewada. Counsel for the petitioner further submits that earlier for getting an order of relieving she had also filed a writ petition i.e. W.P. (S.) No.5785/2014 which got disposed of on 14.11.2014, with a direction that the petitioner may make a representation to the concerned authorities and the authorities in turn shall decide the representation in accordance with the law.

3. According to the counsel for the petitioner, respondent authorities till date has not decided the representation of the petitioner however, she could lay hand to a correspondence by the Department to the Office of the Advocate General State of Chhattisgarh intimating that the order of transfer issued in favour of the petitioner on 15.07.2014 can not be acted upon on account of the fact that there was no reliever provided in place of the petitioner and as per the prevailing transfer policy unless the reliever is provided the petitioner can not be relieved from the present place of posting as she is presently posted in a schedule area.

4. Counsel for the petitioner further submits that even such intimation has not been provided to the petitioner. He further submits that though the order has been marked to her but she has till date not been served with such an order. Even other wise, all that is reflected from the letter marked to the Advocate General is only that the transfer order could not be given effect to because of non-availability of a reliever to replace the petitioner.

5. The limited question that comes up before the Court is that, when the State Government itself has framed a transfer policy wherein one of the clause speaks that, when an employee of a schedule area is transferred he or she will not be released for the new place of posting unless a reliever is provided at the said place.

Knowingly when the petitioner has been transferred at her own request and cost, the government ought to have ensured that the place where the petitioner is working is provided with a reliever. When the government has acceded to the request of the petitioner for transfer and vide order dated 15.07.2014 she has been transferred it is also the duty of the government to ensure that the order of the government is honoured.

True it is that it is purely the prerogative of the government to decide who has to be posted where and to also decide when an employee has to be shifted. But when once an administrative decision has been taken by the government, it should also have been ensured that the basic conditions attached to the transfer also is met by providing a reliever. Though the order of transfer has been passed on 15.07.2014 inspite of more than 9 months have passed the government could not provide for a reliever nor the petitioner was released for her new place of posting.

This attitude of the government of giving great hope to the petitioner by issuing an order of transfer but the same time also acts in a manner ensuring that the order may not be acted upon is not appreciable. If the government was not in a position to release the petitioner by providing a reliever it should not have at all issued the transfer order in favour of the petitioner. The government should not take steps by which its own order gets frustrated from being implemented. True it is that it is purely and exclusive prerogative of the government to decide the place of posting and time for transferring an employee from one place to another. Further the scope of interference in a transfer matter also is very limited as by now settled by umteen number of decision of the Supreme Court.

Knowing fully well about the scope of judicial interference in

respect of an order of transfer under service jurisprudence, in the opinion of this Court ends of justice would meet if the case of the petitioner is sent back to the respondent No.1 for reconsideration of the case of the petitioner particularly keeping in mind the fact that the petitioner inspite of over a months having passed transferred place of posting nor the order of transfer has till date been modified or cancelled.

6. In view of the foregoing reasons, the instant writ petition at this juncture is disposed of with a direction to respondent to take an appropriate decision in the petitioner's case. The respondent No. 1 should look into the matter personally before passing any appropriate decision.

7. With the aforesaid observation the writ petition is disposed of.

8. It is expected that the authorities concerned shall take prompt decision within a period of 8 weeks from today.

(P. Sam Koshy)
JUDGE