

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No.1029 of 2016**

Manish Joy, son of late K.N. Joy, aged about 40 years, present posted as Ophthalmic Assistant at Primary Health Center, Devrikhurd (Bilha), Police Station Torva, District Bilaspur (CG).

---- Petitioner**Versus**

1. State of Chhattisgarh, through Secretary, Department of Health and Family Welfare Mahanadi Bhawan, Mantralaya, Capital Complex, Naya Raipur, District Raipur (CG).
2. The Collector, Bilaspur, District Bilaspur (CG).
3. The Chief Medical and Health Officer Bilaspur, District Bilaspur (CG).
4. The Commissioner, Division Bilaspur, District Bilaspur (CG).

---- Respondents

For Petitioner : Shri A.K. Yadav, Advocate.
 For Respondents/State : Shri Dilman Rati Minj, Dy.G.A.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****11/04/2016****(1)** Heard.

(2) By the impugned order dated 23.10.2015 (Annexure P/2) passed by respondent No.3-Chief Medical and Health Officer, Bilaspur, the petitioner has been transferred from Primary Health Center, Devrikhurd (Bilha) to Primary Health Center, Navagaon, Pendra.

(3) The petitioner had challenged his transfer order before this Court in W.P.(S) No.204/2016, in which this Court by order dated 20.01.2016 directed the Collector, Bilaspur to decide the representation of the petitioner.

(4) The Chief Medical and Health Officer, Bilaspur vide its order dated 04.02.2016 rejected the representation and no reason was assigned in the order for rejection of the representation.

(5) This Court by order dated 18.02.2016 passed in WP(S) No.515/2016 quashed the order passed by the Chief Medical & Health Officer, Bilaspur and directed the Collector, Bilaspur to pass speaking and well reasoned order.

(6) Now, the Collector, Bilaspur vide its order dated 21.03.2016, filed as Annexure P/1 has rejected the representation of the petitioner holding that the petitioner's service is required at Primary Health Center, Navagaon (Pendra).

(7) 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 employee 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 Naidu 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).

(8) After hearing learned counsel for the parties and after going the order rejecting representation, this Court is not inclined to interfere with the impugned transfer order as well as the order rejecting representation. The writ petition being devoid of any merit deserves to be and is hereby dismissed.

Sd/-

(Sanjay K. Agrawal)
Judge

L/-

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