

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 3505 of 2016

Dr. G.P.Dubey S/o Late Shri Harit Ram Dubey, Aged About 62 Years
Working As Ayurveda Chikitsa Adhikari, Janjgir Champa, Ayush Poly
Clinic, Janjgir Champa Civil & Revenue District- Janjgir-Champa,
Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through: The Secretary, Health And Family Welfare Department, Mahanadi Bhawan, Mantralaya, Post & P.S.- Rakhi, Civil & Revenue District- Raipur, Chhattisgarh
2. The Under Secretary, Health And Family Welfare Department, Mahanadi Bhawan, Mantralaya, Post & P.S.- Rakhi, Civil & Revenue District- Raipur, Chhattisgarh
3. The Director, AYUSH, State Of Chhattisgarh, Raipur, Civil & Revenue District Raipur, Chhattisgarh
4. The District Ayurveda Officer, Janjgir Champa, Civil & Revenue District Raipur, Chhattisgarh
5. The Collector, Janjgir-Champa, Civil & Revenue District Janjgir-Champa, Chhattisgarh
6. The Secretary, General Administrative Department, State Of Chhattisgarh, Mahanadi Bhawan, Mantralaya, Post & P.S.- Rakhi, Civil & Revenue District- Raipur, Chhattisgarh

.....Respondents

For Petitioner : Mr. Amrito Das, Advocate
For Respondent-State : Shri S.P. Kale, Dy. Advocate General.

S.B.:Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

09/08/2016

Heard on admission.

1. The petitioner has challenged the transfer order mainly on the ground that there is a violation of transfer policy that in the event of need of transfer, officers who are in excess should be transferred. The petitioner, in application of such policy, would not be included for transfer. The second ground is that the petitioner had earlier forgone his promotion to the next higher post on medical ground. Now the petitioner is being transferred to take charge of the higher post at a different station. It is stated that the petitioner is suffering from some ailment and for that reason, it is difficult for him to proceed on transfer.

2. As far as the ground of violation of transfer policy is concerned, to my mind, unless it results in malafide exercise of power, illegality or an extreme hardship so as to warrant interference of a writ Court, violation of transfer policy does not give any right to challenge the transfer order. It has been held by this Court in the case of **Budh Sai Bhagat Vs. State of Chhattisgarh** (WPS No.3422 of 2016) that violation of the transfer policy, without anything more, including ground of excess number of transfer is not available to challenge the transfer order in the Writ Court. The second ground that the petitioner had forgone promotion, would not save the petitioner from transfer in exigencies. The third ground that the petitioner is suffering from medical ailment, may be one of the ground for the petitioner to prefer representation before the State Government. As the petitioner has already preferred a representation, the Transferring Authority is obliged to examine petitioner's representation in accordance with the transfer policy dated 11.06.2016 and take decision thereon within four weeks from the date of receipt of copy of this order.

3. The petition is accordingly disposed off.

Sd/-
(Manindra Mohan Shrivastava)
Judge