

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 3971 of 2016

Shraddha Verma (Dilliwar) W/o Shri Mukesh Dalliwar, Aged
About 37 Years Posted As Food Inspector, Department Of Food
And Civil Supplies Collectorate, Durg District Durg Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of
Food And Civil Supplies Mahanadi Bhawan, Naya Raipur
District Raipur Chhattisgarh
2. Collector, Durg, District Durg Chhattisgarh

---- Respondents

For Petitioner	:	Shri Jitendra Pali Advocate
For State	:	Shri R.K. Gupta, Dy. A.G., on advance copy

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

Order On Board

23/08/2016

Heard on admission.

1. The transfer order is under challenge on various grounds that the petitioner is undertaking a treatment in the fertility centre, that there is another employee posted in July, 2012, who has not been transferred that one Ms. Shashi Singh, who was transferred to Kondagaon in the month of March, 2016, challenged her transfer order and filed petition which has been admitted and interim order has been granted in her favour and that while making transfer, the policy of transferring, women employee to core scheduled area as far as possible has been violated.

2. Learned counsel for the petitioner could not dispute that the petitioner has remained posted at the present place for more than four

years, therefore, she has become due for transfer. The ground with regard to availing treatment at fertility centre is a matter of consideration by the State Authority and not for this Court for the simple reason that it does not affect the legality of the order. The second ground that another employee who has been posted in July, 2012, has not been transferred, again is a matter of consideration by the State Authority as to which employee has to be transferred from one place to another place. The third ground that another employee, who was transferred in the month of March, 2016, had challenged her transfer order on the ground that other posts are lying vacant and therefore, she should not be transferred, is not a rule of thumb. An employee cannot dictate the employer which of the employee should be posted. Mere availability of vacancy does not entitle an employee to continue at a given place of posting even beyond the period of normal tenure of service. Transfers are made on exigency of service. Where an employee has already continued for more than four years, that by itself, without anything more, constitutes administrative exigency.

3. Therefore, as far as the writ jurisdiction is concerned, I am not inclined to interfere with the order. However, as far as medical ground of receiving fertility treatment is concerned, that is one aspect where the Government may consider whether it would be feasible, subject to administrative exigency to post the petitioner at any suitable place other than the place where the petitioner has actually been transferred. Only for this purpose, the representation may be considered and decision may be taken in four weeks from the date of receipt of copy of this order.

4. The petition is accordingly disposed off.

Sd/-
(Manindra Mohan Shrivastava)
Judge