

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 4092 of 2016

Bhawani Lal Naik S/o Shri Parmeshwar Naik, Aged About 37 Years
Presently Working As Pharmacist Grade 2 At P.H.C. Kodatarai Pussore
R/o Village An Dpost Loharsingh, Tahsil Pussore Civil And Revenue
District Raigarh Chhattigarh

---- Petitioner

Versus

1. State Of Chhattisgarh Department Of Health And Family Welfare,
Through Its Secreary, Mantralaya, Mahandi Bhawan, Naya Raipur
Chhattisgarh
2. The Director And Secretary Of General Administration Department,
Senior Secretary, State Of Chhattisgarh Mantralaya, Mahandi Bhawan,
Naya Raipur, Chhattisgarh
3. The Collector, Health Department District Raigarh Chhattisgarh
4. The Chief Medical & Health Officer, Raigarh, District Raigarh
Chhattisgarh

---- Respondents

For Petitioner	:	Shri Roop Naik, Advocate
For State	:	Shri R.K. Gupta, Dy.A.G.

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

Order On Board

26/08/2016

Heard on admission.

1. The transfer order is under challenge only on the ground that the
petitioner is a handicapped person. It is submitted that the petitioner is
being transferred to a place which is 120 k.m. away.
2. The case of the petitioner is that the nature and extent of disability which

the petitioner is suffering from, transfer to the place where he is being sent, may result in serious hardship.

3. It is found that the petitioner has remained posted at the present place since 2008. Earlier also he was transferred and when he approached the Court, there were directions to consider the petitioner's case and transfer order was cancelled.
4. The State transfer policy does not make any specific mention as to how the cases of handicapped category employees have to be dealt with. There is a need to provide for a policy to deal with such cases depending upon nature and extent of disability, nature of duty to be performed by the employee and other host of circumstances, keeping in view the administrative exigency as well. For the present, till the State formulates appropriate policy decision, the proper course of action to be followed would be to direct respondent No.3/Collector to subject the petitioner to medical examination by a committee of not less than three medical experts, to examine the nature and extent of disability and to find out whether the transfer shall in any way result in such a hardship so as not to allow transfer of the petitioner. The decision may be taken within a period of 6 weeks. Depending upon the decision, the Collector may decide whether it is required to direct the petitioner to proceed on transfer or to allow him to continue at the preset place of posting or to post him to any other nearby station.
5. For a period of 6 weeks, coercive steps shall not be taken against the petitioner.
6. With the aforesaid observation and direction, the petition is finally disposed off.

Sd/-
(Manindra Mohan Shrivastava)
Judge