

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 5577 of 2016

Dr. Abhishek S/o Shri Chhabilal, Aged About 33 Years R/o C/o
C.L. Ramteke, Opposite Rajhara Timber Mart, Main Road,
Chikhalakasa, Dalli Rajhara Distirct Balod Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary Health And Family
Welfare Department, Mahanadi Bhawan, Naya Raipur
Chhattisgarh
2. The Commissioner, Health Services, Indrawati Bhawan, New
Raipur Chhattisgarh
3. The Director, Health Services, Indrawati Bhawan, New Raipur
Chhattisgarh
4. The Director, Medical Education Old Nurses Hostel, D.K.S.
Bhawan Compound, Raipur Chhattisgarh
5. The Chief Medical And Health Officer, District Balod Chhattisgarh
6. Committee Of Senior Secretaries, (For Consideration Of
Representation Against Transfer Of Government Employees
Mahanadi Bhawan Naya Raipur, Distirct Raipur Chhattisgarh

---- Respondents

For Petitioner	:	Mr. P.P. Sahu, Advocate.
For State	:	Mr. Dheeraj Wankhede, G.A.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

06/10/2016

Heard on admission.

1. This is second round of litigation. Earlier the petitioner aggrieved by transfer order, filed a petition on the ground that since he had served in the scheduled area for almost five years, he should be considered for posting outside the scheduled area. Considering that there exists a policy of the State Government which requires consideration of the cases whereafter the first appointment, the officer has been posted in the scheduled area for five years, this Court disposed off the matter for

consideration of representation.

2. Learned counsel for the petitioner submits that without due and proper consideration of petitioner's representation and the policy, the representation has been rejected on the ground that there is an administrative exigency to post the doctor in the hospital where the petitioner has been posted. Learned counsel for the petitioner submits that there are many other doctors who were newly recruited but they were not posted in the scheduled area but the petitioner has been chosen to post in the scheduled area.

3. The transfer of an employee is the incident of service. The State Government in order to regulate the exercise of powers of transfer framed its own policy of transfer. As far as transfers and posting in and out of scheduled area are concerned, the State Government has framed a policy in this regard. However, the transfer policy is not enforceable in the Court of law which is settled legal position.

4. This Court, at the first instance, had disposed off the matter with the direction to consider the representation because in the transfer policy there is specific clause for consideration of representation. A Committee constituted by the State Government by applying its mind found that there is administrative exigency to post the petitioner. It has to be noted that the petitioner is a Government servant and he has also done P.G. Therefore, the Government has considered it in exigency that the petitioner should be posted to serve in hospital in the remote district of the State. The administrative exigency is paramount. Once the transfer order is not found to be suffering from any illegality or malafide nor it can be said to be a case of extreme hardship so as to warrant indulgence by a writ Court, this Court is not inclined to interfere with the exercise of discretionary in administrative matter and in the nature of administrative exigency warranting transfer of the petitioner.

5. I do not find any other ground to interfere with the discretion of the authority. The petition is accordingly dismissed.

Sd/-

(Manindra Mohan Shrivastava)
J U D G E