

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 689 of 2015**

Govind Singh Uddey S/o Late Ramu Singh Aged About 41 Years Posted As
Supervisor On Community Health Centre Dhamdha District Durg Chhattisgarh

---- Appellant**Versus**

1. State Of Chhattisgarh Through Secretary, Health And Family Welfare Department, Secretariat, Mahandi Bhawan, P.S. And Post Rakhi, New Raipur, District Raipur Chhattisgarh
2. Director, Health Services Chhattisgarh, Third Floor, Indrawati Bhawan, New Raipur, District Raipur (Chhattisgarh)
3. Collector Durg, District Durg, Chhattisgarh.
4. Chief Medical And Health Officer Durg, District Durg, Chhattisgarh.

---- Respondents

For Appellant	:	Shri Y.C.Sharma, Advocate.
For Respondents/State	:	Shri B. Gopa Kumar, Deputy Advocate General.

Hon'ble Shri Navin Sinha, Chief Justice
Hon'ble Shri P. Sam Koshy, J.

Judgment on Board**Per Navin Sinha, Chief Justice****07/01/2016**

1. The present appeal arises from order dated 3.12.2015 dismissing Writ Petition (S) No. 4605 of 2015. The Learned Single Judge declined to interfere with the order of transfer dated 15.7.2014 transferring the Appellant from Community Health Centre, Dhamdha to Sector Selud Patan, within the District of Durg at a distance of barely 55 KMs.
2. Learned Counsel for the Appellant submitted that the transfer was in violation of the administrative guidelines which required that no post can be left

vacant. If the Appellant was transferred, there would be a vacancy of Supervisor at Dhamdha. The Appellant came to this Court earlier in Writ Petition (S) No. 3622 of 2014 assailing the order dated 15.7.2014. He was directed to represent and which was directed to be considered also. The representation has been rejected on 9.11.2015 merely stating that the transfer having been done on administrative grounds called for no interference.

3. Learned Counsel for the State opposing the appeal submitted that the Appellant has remained posted more than for three years at Dhamdha. The transfer was on administrative grounds. The Court may not interfere with the exercise of administrative discretion in running the administration.

4. We have considered the submissions on behalf of the parties and find no infirmity in the reasoning of the Learned Single Judge that transfer and postings were normal incidence of service calling for no interference by the Court except where malafides were alleged or there were infringement of statutory rules and regulations. None of the conditions exist presently. The Appellant has not brought on record any copy of the representation filed by him pursuant to the earlier order of the Court. He has already remained posted at the previous place of posting for three years. The physical distance is barely 55 KMs. If the Appellant is so concerned for the administration that his absence at Dhamdha would affect government work, we expect him to be equally concerned that his not joining at the transferred place which was also vacant would also affect government work.

5. We are further of the considered opinion that present writ petition was not maintainable at all. On the first occasion itself, the Court found no reason to interfere with the order of transfer on merits. It is a normal practice that when a litigant is unable to persuade the Court to interfere, he withdraws the application seeking liberty to represent. The Courts sympathetically pass orders making observations regarding representation. If the representation is allowed, it may be

good for the employee. But if the representation is rejected, it does not provide him a fresh cause of action to approach the Court again creating a new cause of action when originally the Court had found no merit in the writ application.

6. The caution to be exercised in such matters by the Writ Court to avoid unnecessary litigation was considered in (2008) 10 SCC 115 (C. Jacob v. Director of Geology & Mining) with reference to what was euphemistically described as the representation syndrome to found a new cause of action after the rejection of such representation.

7. The writ appeal is dismissed.

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE