

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 2194 of 2016**

Dr. Gunesh Singh Choudhary S/o Late Shri D. P. Choudhary Aged About 63
 Years Occu : Asstt. Surgeon, Public Health Center Balod, R/o 87 Mahesh
 Nagar Rajnandgaon, Distt. : Rajnandgaon (Chhattisgarh)

---- Petitioner**Versus**

1. State Of Chhattisgarh Through : Its Secretary Public Health And Family Welfare Department, Mahanadi Bhawan, Naya Raipur, (Chhattisgarh)
2. Director, Public Health And Family Welfare Department, Indravati Bhawan, District Raipur Chhattisgarh
3. Chief Medical And Health Officer, District Balod Chhattisgarh
4. Block Medical Officer, District Balod Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Praveen Verma and Dr. Jyoti Praveen Verma, Advocates.
For State	:	Mr. Dheeraj Wankhede, G.A.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****17/06/2016**

Heard on admission.

1. This petition has been filed by the petitioner seeking a direction for joining on the post of Assistant Surgeon at Balod with effect from 17.09.1992. The petitioner has also prayed for compensation to be awarded due to monitory loss suffered on account of non-relieving, non-joining on the post on which he was promoted vide order dated 07.01.1997.
2. Learned counsel for the petitioner argued that though the petitioner was transferred vide order dated 02.09.1992 from District Hospital Rajnandgaon to Primary Health Centre Balod (Durg), he was never allowed to join at Durg. The

petitioner submitted his joining before the Block Medical Officer Balod however, BMO sought guidance from Chief Medical Officer, District Durg and thereafter, nothing happened in the matter. The petitioner remained without posting, work and salary. In course of time, vide order dated 07.01.1997, the petitioner was promoted as 'Specialist' and posted at Seoni. This order was also not given any effect to. The petitioner had earlier filed a writ petition No.463 of 2003 before this Court which was disposed off vide order dated 11.09.2014 with certain directions and writ appeal was preferred which was also dismissed. Thereafter, the petitioner filed a writ petition in the High Court of Madhya Pradesh which was dismissed as withdrawn with liberty to file contempt petition before this Court.

3. Learned counsel for the petitioner contents that now the petitioner has filed this petition aggrieved on account of inaction on the part of the respondents in not allowing his joining at Balod which is distinct and separate from the cause of action on which earlier a writ petition was preferred before this Court.

4. I am afraid, no relief can be granted to the petitioner in this petition.

5. The records reveal and it has been clearly recorded in the order passed by the Division Bench of this Court on 12.11.2014 that the petitioner has been allocated the State of Madhya Pradesh upon reorganization of the State. The petitioner is not an employee of the State of Chhattisgarh. This Court has already considered the grievance of the petitioner ventilated in the earlier petition that he is not being allowed to join at Seoni. In that petition, the petitioner sought relieving and joining at Seoni along with payment of salary from September, 1992.

6. In the earlier round of litigation, this Court has recorded in para 11 and 12 of the order that the petitioner did not attend the duties from 18.09.1992 onwards. Therefore, there is no question of granting him salary for the period. The petition was disposed off with a direction that in the event the petitioner submits a representation before the competent authority in the State of Madhya Pradesh, a decision be taken in the matter. Writ appeal filed against the aforesaid order has also been dismissed.

7. Learned counsel for the petitioner submits that the writ petition was filed by him before the High Court of Madhya Pradesh, which has been dismissed as withdrawn on 17.03.2016 with liberty to file contempt petition.

8. Considering the aforesaid facts and circumstances, particularly that the petitioner is no longer an employee of State of Chhattisgarh but upon reorganization he has been allocated to State of Madhya Pradesh, no mandamus can be issued to the respondents to allow the petitioner to join at Balod.

9. The petition is, therefore, dismissed.

Sd/-

(Manindra Mohan Shrivastava)
J U D G E