

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 4388 of 2016

Ajay Kumar Kujur S/o Samay Sai Kujur Aged About 42 Years R/o Kharkona,
Police Station And Post Ambikapur, Civil And Rev. District Surguja
Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Health & Family Welfare
Department, Mahandi Bhawan, Mantralaya, Capital Complex, Naya Raipur,
District Raipur Chhattisgarh.
2. Director Health Services, Chhattisgarh Raipur, District Raipur Chhattisgarh.
3. Dean Govt. Medical College, Ambikapur, District Surguja Chhattisgarh.
4. Director, Medical Education, Raipur District Raipur Chhattisgarh.
5. Chief Medical And Health Officer, Ambikapur District Surguja Chhattisgarh.

---- Respondents

For Petitioner	:	Shri Manoj Paranjpe, Advocate
For State	:	Shri Dhiraj Wankhede, Govt. Advocate

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

Order On Board

02/09/2016

Heard on admission.

1. The transfer order is being challenged on the ground that the petitioner's
services have already been transferred to Medical Education Department and
is no longer in services of Health Department of the State Govt. Therefore, he
cannot be transferred by the Secretary, Department of Health and Family
Welfare. The other ground is that in fact, the requirement of the petitioner is
very much there at Ambikapur which is reflected from memo dated 4.8.2016

of the Dean, Govt. Medical College, Ambikapur, which has been addressed to the Collector, which shows that the transfer of the petitioner is contrary to administrative exigency. The third ground is that the petitioner's wife is posted and working as Woman Health Worker at Sub-Health Centre Bargidih, Ambikapur district which is a place nearer to the present place of posting of the petitioner. If the petitioner is transferred to district- Balrampur, this will violate the Govt. policy of keeping the husband and wife together as far as possible subject to administrative exigency. Next submission is that the petitioner has already served in the scheduled area for last more than 10 years and, therefore, as per circular dated 3.6.2015 of the Govt., he should be considered for transfer to place outside the scheduled area.

2. The argument that the services of the petitioner have been transferred to Medical Education Department rests on the face of order dated 2.5.2014 (Annexure P-3) and a recent memo dated 4.8.2016 (Annexure P-4). These two documents only reflect that in order to run the medical college, the employees of the Health Department have been placed under the administrative control and jurisdiction of medical college. This is only administrative arrangement and does not amount to transfer of services of the petitioner from Health Department to Medical Education Department.
3. The other ground that the Dean has sent letter to the Collector seeking cancellation of the transfer order is an administrative matter for which the best decision may be taken only by the authority and this Court cannot substitute itself in the place of the administrative officer as to what would be the more conducive to administrative exigency in a given situation and whether the services of the petitioner are needed more at Ambikapur or the place where he is being transferred. One of the ground that wife of the petitioner is posted in the same district as Woman Health Worker is a ground which may require consideration by the Govt. though, at the same time, the petitioner cannot claim to continue at the same place on that ground because the petitioner has remained posted at the present place for last 10 years. In such a case, the Govt. may work out to transfer of the petitioner and his wife at one or nearby station. This aspect may be examined by the Govt. in case representation is preferred by the petitioner.

4. One of the grounds taken in the petition that the petitioner has remained posted in the scheduled area for last 10 years shall also require consideration under the policy dated 3.6.2015, wherein, it has been provided that where the Govt. servant has remained posted in scheduled area/core scheduled area for long time, he will be considered for posting outside the scheduled area. Further, in view of the above consideration, so far as the grounds of posting husband and wife together and posting the petitioner outside the scheduled area are concerned, this aspect is required to be considered by the Govt.
5. It is found that the petitioner has already preferred representation to the State Govt. The State Govt. shall consider the aforesaid two grounds only, for appropriate amendment or change in the transfer order. The decision should be positively taken by the Govt. within a period of 4 weeks from the date of receipt of copy of this order.
6. The petition is accordingly finally disposed off with the observation and direction as above.

Sd/-
(Manindra Mohan Shrivastava)
Judge