

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**WPS No. 664 of 2017**

1. Dr. Lavkush Dubey S/o Late Jai Jai Ram Dubey, Aged About 57 Years R/o G- 21, Nutan Colony, Police Station Sarkanda, District Bilaspur, (Chhattisgarh)

**---- Petitioner**

**Versus**

1. State Of Chhattisgarh Through: The Secretary, Department Of Health And Family Welfare, Mantralaya, Mahanadi Bhawan, New Raipur, District Raipur, (Chhattisgarh)
2. Under Secretary, Department Of Health & Family Welfare, Mantralaya, Mahanadi Bhawan, New Raipur, District Raipur, (Chhattisgarh)
3. Director, Indian System Of Medicine And Homeopathy, Raipur, District Raipur (Chhattisgarh)
4. Superintendent Cum District Ayurved Officer, Bilaspur, District Bilaspur, (Chhattisgarh)

**---- Respondent**

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| For Petitioner       | Shri Chandresh Shrivastava, Advocate |
| For Respondent/State | Ms. Sunita Jain, Panel Lawyer        |

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**Hon'ble Shri Justice Prashant Kumar Mishra**

**Order On Board**

**26/04/2017**

1. Petitioner would call in question the orders dated 20-1-2017, 21-9-2016 & 25-7-2016 (Annexures – P/1, P/2 & P/3, respectively).
2. By the first order dated 25-7-2016 the petitioner was transferred as Ayurved Medical Officer, Government Ayurved

College Hospital, Bilaspur to Government Ayurved College, Mungeli and by two subsequent orders his posting has been modified from Bilaspur to Government Ayurved Hospital, Raigarh.

3. After the first order transferring him to Mungeli the petitioner preferred WPS No.3364 of 2016 which was disposed of by this Court vide order dated 3-8-2016 with a direction that looking to the nature of difficulty expressed by the petitioner, the respondent State may consider posting of the petitioner at any other place where same facility is available.
4. Petitioner's daughter is suffering from Thalassemia Major for which his daughter requires blood transfusion at regular intervals.
5. Considering the order passed in WPS No.3364 of 2016, the State Government considered his representation, modified the transfer order and instead of sending him to Mungeli he has been sent to Raigarh where better medical facilities are available, in comparison to the facilities at Mungeli.
6. It is the petitioner's stand that blood transfusion to his daughter is arranged by drawing blood from his kith & kin who mostly reside near Bilaspur, therefore, his joining at Raigarh would cause great inconvenience to the treatment of his daughter.

7. I am afraid, such ground was not raised in the earlier round of writ petition when this Court directed that looking to the petitioner's nature of personal difficulty he should be accommodated at a place where medical facilities available. It further appears, the petitioner somehow wants to remain posted at Bilaspur because at Raigarh Medical College Hospital the facility of blood transfusion to a patient of Thalassemia Major is available, as depicted in Annexure – R/1 with the return filed by the State.
8. It is a trite law that transfer/posting is an incidence of service. The Court should not interfere with the transfer/posting order unless there is malice, infringement of statutory rules and regulations. The employees may be posted anywhere at the instance of the employer in public interest and administrative exigency. Further, it is for the Government to post another person if any vacancy arises on account of transfer/posting of an employee. (See *E.P. Royappa v. State of Tamil Nadu and another*<sup>1</sup>, *Shilpi Bose (Mrs.) and others v. State of Bihar & another*<sup>2</sup>, *State of M.P. and another v. S.S. Kourv and others*<sup>3</sup>, *Mohd. Masood Ahmad v. State of U.P. & others*<sup>4</sup>, *Chief Commercial Manager, South Central Railway, Secunderabad & others v. G. Ratnam & others*<sup>5</sup> and

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1 1974 (4) SCC 3  
2 (1991) Supp 2 SCC 659  
3 (1995) 3 SCC 270  
4 (2007) 8 SCC 150  
5 (2007) 8 SCC 212

*Airports Authority of India v. Rajeev Ratan Pandey & others*<sup>6</sup>).

9. In the case at hand, considering the petitioner's personal difficulty vis-a-vis his daughter's ailment the posting order of the petitioner has been changed from Mungeli to Raigarh, but now the petitioner is aggrieved by the said order, therefore, he is not only challenging the modified order, but the original order itself, which tends to suggest the petitioner's desire to stay at Bilaspur by taking shelter of his daughter's ailment.
10. Considering the entire facts situation of the case, this Court does not find any substance in this petition. The impugned orders are just and proper, warranting no interference of this Court.
11. In the result, the writ petition, sans stratum, is liable to be and is hereby dismissed.

Sd/-

Judge

Prashant Kumar Mishra

Gowri