

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 525 of 2017**

(Arising out of Order dated 30.10.2017 in WPS 964 of 2017 of the learned Single Judge)

- Sanjay Kumar Narang S/o Laksh Kumar Narang, Aged About 28 Years R/o M. E. D. G 1, Civil Lines, District Dhamtari, Chhattisgarh.

---- Appellant**Versus**

1. State Of Chhattisgarh Through Its Secretary, Public Health And Family Welfare Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur, Chhattisgarh.
2. Director, Health Services, Chhattisgarh, Indrawati Bhawan, Naya Raipur, District Raipur, Chhattisgarh.
3. Chief Medical And Health Officer, At Dhamtari, District Dhamtari, Chhattisgarh. (Respondents)

---- Respondents

For Appellant	:	Shri N. Naha Roy, Advocate
For Respondents/State	:	Shri R.K. Gupta, Deputy Advocate General

Hon'ble Thottathil B. Radhakrishnan, Chief Justice**Hon'ble Shri Justice Sharad Kumar Gupta****Judgment on Board****Per Thottathil B. Radhakrishnan, Chief Justice****14.12.2017**

1. The Writ Petitioner is the Appellant. We have heard the learned Counsel for the Appellant challenging the order of the learned Single Judge refusing to interfere with an order of transfer.
2. To our query, we are told that the Primary Health Centre to which the Petitioner has been transferred from the District Store Section is hardly 18 KMs away from the District Headquarters.

3. Be that as it may, the learned counsel for the Appellant argued, also making reference to the order of the Apex Court in **Sarvesh Kumar Awasthi v. U.P. Jal Nigam; (2003) 11 SCC 740**, that the power to transfer an officer cannot be wielded arbitrarily, mala fide or in exercise against efficient and independent officer. The said precedent was referred to buttress the argument that for better administration, the officers concerned must have freedom from fear of being harassed by repeated transfer orders or transfer orders at the instance of someone who has nothing to do with the business of administration. Those views were expressed by Their Lordships noticing that in that case before the Apex Court, the file carried materials indicating that transfers are effected at the recommendation of either the Ministers or MLAs, MPs or the MLCs. This was what was seen from the Noting and Orders (C&DS) of the Uttar Pradesh Jal Nigam, in that case.
4. While we are clear in our mind that the power to transfer a government employee is with the competent authority and is to be exercised free of bias or external influence including from political power points which are not involved in administration of a particular department, the facts of the case in hand are insufficient to indicate that the impugned transfer was at the behest of any usurper. We say this because the learned Single Judge has rightly noted that the transfer is not a punitive one. Obviously, therefore, it is not stigmatic. The Petitioner has the case that the entire issue was at the instance of a dealer in Medicines and Drugs, for which he had also used influence of political leaders to ensure that the Petitioner is moved out of the District Store. We are unable to assume on the basis on materials on record that even if the Petitioner was found to be free of blemish, the administration was not within the authority to make an order of transfer, having regard to the managerial requirement of the institution concerned. Sometimes it does happen that persons who are not on the wrong side of the things do get transferred to ensure that administrative efficiency is maintained in the different institutions under one administrative

head. We make these observations having particular regard to the fact of this case. Though the Petitioner has been transferred from the District Stores Section to the Primary Health Centre, he continues to be Pharmacist Grade II and the Primary Health Centre is just 18 Kms away from the District Centre.

5. For the aforesaid reasons, we are of the view that the decision taken by the learned Single Judge is one which cannot be treated as unavailable on the records in the course of an adjudication of the writ petition under Article 226 of the Constitution. We are therefore of the view that the impugned judgment does not warrant interference through this intra-court appeal.
6. In the result, the writ appeal is dismissed.

Sd/-

(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-

(Sharad Kumar Gupta)
Judge