

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 5630 of 2016

P. K. Gupta S/o Late Shri R. N. Gupta, Aged About 53 Years Netra Sahayak Officer District Hospital Kabirdham, Civil & Revenue District Kabirdham, (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Ministry Of Health, Mahanadi Bhawan, Naya Raipur, Civil & Revenue District Raipur, (Chhattisgarh)
2. The Chief Medical And Health Officer, Kabirdham, Civil & Revenue District Kabirdham, (Chhattisgarh)

---- Respondents

For Petitioner	:	Shri Dinesh Tiwari, Advocate
For State	:	Shri R.K. Gupta, Dy. A.G.

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

Order On Board

09/03/2017

1. The petitioner has challenged his transfer order dated 19th September, 2016 on the ground that transfer order is in violation of the Govt. policy. It is submitted that the petitioner is a differently abled person suffering from disability to the extent of 55% in his lower limbs. Considering this aspect, the petitioner was kept posted in the district hospital at Kawardha. However, by the impugned order, he is being sent back to same Primary Health Centre wherefrom he was drawn and posted at District Hospital, Kawardha.
2. Learned counsel for the State submits that earlier the petitioner was brought to work in the District Hospital, Kawardha, however, respondent No.2 who is immediate controlling authority of the petitioner was not satisfied with the work of the petitioner because the petitioner is required to work towards implementation of Blindness Eradication Programme at the district level. Having tested the petitioner's work and performance for about nine months, when it was found that it is difficult to get the work extracted from the petitioner, the petitioner

has been sent back to same place wherefrom he was drawn.

3. Though learned counsel for the petitioner submits that the respondents have not come out with details of nature and duty of work required to be performed towards implementation of blindness eradication work at the district level, I am not inclined to go into that aspect for the reason that there is no challenge to the order on the ground of personal malice of the Chief Medical and Health Officer. True it is that the petitioner is suffering from certain disability. It is, however, to be seen that right from the beginning, the petitioner was posted and working as Ophthalmic Assistant in Primary Health Centre, Pondi which is hardly 25 k.m. away from Kawardha. It is stated that the petitioner is a permanent resident of Kawardha.
4. A balance is to be maintained between individual grievance and the public interest. While the petitioner is a person suffering from certain disability on lower limbs, at the same time, effective implementation of Blindness Eradication Programme is also important. If respondent No.2 had arrived at subjective satisfaction that the petitioner is not fit to continue for implementation of the said programme, this Court cannot substitute its opinion on the same by collecting information regarding niceties of the functioning of Blindness Eradication Programme. More so, when there is no allegation of personal malice alleged against the Chief Medical and Health Officer. He has not even been made a party in his personal capacity.
5. Therefore, I am not inclined to interfere with the impugned order. However, before parting with the case, this Court gives the petitioner an opportunity to apply for posting at any other place nearer to Kawardha which may be of better convenience to the petitioner as compared to the present posting at Pondi. If such a representation is made by the petitioner for his transfer to any other nearer or suitable place where a post of Ophthalmic Assistant is available, respondents shall consider the same within a period of six weeks from the date of receipt of representation.
6. The petition is accordingly finally disposed off with the observations as above.

Sd/-
(Manindra Mohan Shrivastava)
Judge