

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 5629 of 2016

Chitranjan Patnaik S/o Subhash Patnaik, Aged About 32 Years Occupation Rural Medical Assistant, Primary Health Center, Tundri, Block Dabhara, District Janjgir Champa Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Health And Family Welfare Department, Mantralaya Mahandi Bhawan, Naya Raipur, District Raipur Chhattisgarh
2. Additional Secretary, Health And Family Welfare Department, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur Chhattisgarh
3. Director, Directorate Of Health And Family Welfare Department, Raipur, District Raipur Chhattisgarh
4. Santosh Kumar Soni, Primary Health Center, Gholeng, District Jashpur Chhattisgarh
5. Additional Chief Secretary, Adim Jati & Anusuchit Jati Development Department And President Senior Secretary Committee, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur Chhattisgarh
6. Chief Secretary, Public Works Department Chhattisgarh And Member Senior Secretary, Committee, Mantralaya, Mahandi Bhawan, Naya Raipur, District Raipur Chhattisgarh
7. Secretary, General Administration Department And Coordinator Senior Secretary Committee, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur Chhattisgarh

---- Respondents

For Petitioner	:	Shri Awadh Tripathi, Advocate
For Respondents 1,2,3,5,6 & 7/State	:	Shri D.R. Minj, Dy. Govt. Advocate
For respondent No.4	:	None appears

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

Order On Board

23/01/2017

Heard.

1. The petitioner is in the second round of litigation and challenges the order dated

22.9.2016 by which representation of the petitioner for his continuance at the preset place of posting has been rejected.

2. Indisputedly, the petitioner's wife was transferred from Jashpur to Janjgir Champa and posted in the school at Tundri on the ground of keeping husband and wife together. The wife was transferred vide order dated 28.5.2016. The petitioner was posted at Rural Medical Assistant in Primary Health Centre at Tundri, District Janjgir-Champa. Within two months, the petitioner was transferred vide order dated 25.7.2016 to Primary Health Centre, Bhandi, District-Surajpur. Aggrieved by this Court, the petitioner preferred a writ petition before this Court. This Court disposed off the writ petition of the petitioner taking note of the fact that only two months before, the petitioner's wife was transferred on her own request, from Jashpur to Janjgir Champa. However, the representation was rejected giving rise to this petition.
3. Learned counsel for the petitioner submits that the petitioner belongs to a lower rank of post as Rural Medical Assistant and as his wife was transferred on her request because of the posting of the petitioner, the respondent ought to have explored the possibility of continuing the petitioner at the same place or nearby place. However, transfer of the petitioner to Surajpur district has been maintained on administrative exigency.
4. Learned counsel for the State submits that the policy of keeping husband and wife together at one place is always subject to administrative exigency and a committee of the Secretaries considered the case of the petitioner and found that the petitioner has been transferred on administrative exigency, therefore, the petitioner's prayer for continuing at the present place was not accepted.
5. The petitioner has been working as Rural Medical Assistant. It is not a case that the petitioner has remained posted at the preset place for a very long time. Undisputedly, the petitioner was posted at the present place of posting only on 1.1.2015. That means within a period of 1 and ½ years, the petitioner was transferred. Moreover, it is a case where the transfer has been made from one district to other district. District Jashpur is quite far away from district- Surajpur. The petitioner's wife had sought transfer from Jashpur to district Janjgir Champa on her own request only to seek accommodation and posting at place where her husband was posted. She was transferred to Janjgir Champa district and posted at Tundri where the petitioner was posted vide order dated 28.5.2016. There is no reason stated in the order as what was that acute exigency for which even in

such a rare situation, it was not at all possible to accommodate the petitioner. The decision in the matter appears to have been taken quite mechanically. The fact that petitioner's wife had joined at Tundri vide order dated 28.5.2016, by itself, was sufficient ground to provide a relief to the petitioner to continue at Tundri or to post him in a nearby Primary Health Centre if it was not possible to post the petitioner at Tundri. It is not a case where the transfer of the petitioner is because of any serious complaint against him. In the return, there is no specific justification that the petitioner was excess or that at Jashpur or in Surajpur, there is so much shortage of Rural Medical Assistants and no other employee could be sent that being not a case of posting of husband and wife.

6. In view of the above consideration, the impugned order transferring the petitioner is liable to be and is hereby set aside. The petitioner shall continue at the present place of posting at Tundri.
7. The petition is accordingly allowed. No order as to cost.

Sd/-
(Manindra Mohan Shrivastava)
Judge