

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 6541 of 2016

Sandeep Bhattacharya S/o Late S. N. Bhattacharya, Aged About 57 Years R/o Quarter No. W/ 136, Yadunandan Nagar, Tifra, District Bilaspur (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Department Of Urban Administration And Development, Mahanadi Bhavan, Mantralaya, Naya Raipur, District Raipur, (Chhattisgarh)
2. Chief Municipal Officer, Nagar Palika Parishad, Ratanpur, District Bilaspur, (Chhattisgarh)
3. Chief Municipal Officer, Nagar Panchayat Sakri, District Bilaspur, (Chhattisgarh)

---- Respondents

Shri Manish Upadhyaya, counsel for the petitioner/s.
Shri D.R.Minj, Dy.G.A. for the State.
Shri Manoj Paranjpe, counsel for respondent No.2.
Shri Akhilesh Kumar, counsel for respondent No.3.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

16/02/2017

The petitioner, who is struggling for survival, suffering from a deadly disease Cancer, has again approached this Court aggrieved by impugned order dated 23/11/2016 by which, he has again been sent to a place wherefrom, it would be difficult to seek treatment of Cancer.

2. The background in which impugned order came to be passed is that while the petitioner remained posted at a distance of about 25 kms from Bilaspur, was transferred to Janjgir -Naila which is at a distance of about 75 Kms. Petitioner filed a writ petition to seek indulgence of this Court that he is suffering from Bone Cancer and requires constant treatment, which facility is available at the nearest place at Bilaspur and if he is transferred to a distant place, he would face difficulty in seeking treatment and serious inconvenience to undertake journey

frequently. Considering the aforesaid aspect, this Court, taking a compassionate view of the matter, directed the respondent authorities to explore possibility whether the petitioner could be transferred to a place which is nearer to the place from where he is receiving treatment.

3. It appears that graciously enough, the respondent authorities considered the representation and posted the petitioner at Sakri, which is an adjacent township to the city of Bilaspur where treatment of Cancer is available. This order was passed on 27/10/2016. The petitioner joined at Sakri also. However, vide impugned order again passed on 23/11/2016 i.e. within a short period of less than two months, he has now been repatriated to his parent municipality which is about 80 kms away. This has brought the petitioner to this Court for indulgence.

4. Learned State counsel submits that the State Government has taken a policy decision to send all the municipal employees posted wherever to their parent municipality. Therefore, vide impugned order, not only the petitioner, but all the employees who were posted other than their parent municipality, were sent back to their parent municipalities. This eventually resulted in posting of the petitioner back to his parent municipality at Pandaria. Therefore, the order does not suffer from any illegality.

5. Learned counsel for other respondents submit that the order has been passed by the State Government.

6. An employee in public employment is liable to be transferred and posted to different places according to administrative exigency. This Court also does not find any fault in the policy decision to post the employees in their parent municipalities. However, in appropriate cases, particularly in the case of acute illness, as in the present case, the posting can be provided by carving out exception. The petitioner undoubtedly suffers from Cancer. In view of the directions of this Court, the petitioner was transferred to an adjacent place where treatment of Cancer is available, but now again, he has been transferred to his parent municipality. Therefore, this Court is of the view that the Government should reconsider its decision taking into consideration the peculiar circumstances of the petitioner that he is suffering from Cancer. It is expected that while considering the case of the petitioner for continuing at Sakri, the State authorities would be guided not only with the policy but also compassion to

ensure that the petitioner continues to get treatment by remaining posted at nearer place where treatment of Cancer is available..

7. Let the matter be revisited by the State within a period of four weeks from the date of receipt of copy of this order, keeping in forefront need of treatment. The petitioner shall continue at the present place till appropriate orders are passed by the State.

8. With the aforesaid directions, this petition is finally disposed off.

Sd/-
(Manindra Mohan Shrivastava)
Judge