

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 5131 of 2016

Inderman Singh Thakur S/o Late Shri Paher Singh Thakur, Aged About 56 Years
Presently Working As A Civil Surgeon At Govt. Hospital, Kawardha, R/o Kailash
Nagar, P.S. Kawardha, Civil & Revenue Distt. Kawardha, (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through- Secretary, Health Department, New Mantralaya,
P.S.- Mandir Hasaud, Naya Raipur, Distt. Raipur, (Chhattisgarh)
2. Director, Directorate Health And Family Welfare Department, Raipur, Distt.
Raipur, (Chhattisgarh)
3. The Collector, Kawardha, Distt. Kabirdham, (Chhattisgarh)
4. The Chief Medical Officer, Kawardha, Distt. Kabirdham, (Chhattisgarh)

---- Respondents

Shri Ajit Singh, counsel for the petitioner/s.
Shri Satish Gupta, Govt. Advocate for the State.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

03/03/2017

The petitioner has challenged transfer order dated 24/07/2016 on the submission that the petitioner is being transferred from District Hospital, Kabirdham to District Hospital, Bemetara. The submission is that the transfer order is contrary to the administrative exigency because the petitioner was the only Surgical Specialist working at Kabirdham and he has been transferred without any specialist transferred in his place. The Civil Surgeon and the Collector, both have written letters to the Government on 10/08/2016 that the transfer of the petitioner, leaving the Hospital without any Surgical Specialist, will hamper proper functioning of the surgical department of the Government hospital.

2. In this case, this Court had directed the State to clearly state whether any person is posted in place of the petitioner as also whether the place where the

petitioner is being posted, there is vacant post of Surgical Specialist or any other proper arrangement against which, the petitioner could be accommodated.

3. Curiously enough, it is found that in place of the petitioner, no one has been posted, leaving the Government hospital, Kabirdham without any Surgical Specialist. The Civil Surgeon-cum- Chief Superintendent of the hospital on the recommendations of the Collector, has already sent a D.O. letter to the Government on 10/08/2016 filed as Annexure P/8. This clearly shows that the transfer of the petitioner is going to adversely affect the functioning of surgical department of the Government Hospital as no Surgical Specialist would be available at Kabirdham upon transfer of the petitioner.

4. This Court also fails to understand that more than one Surgical Specialist has been transferred at Bemetara. By the impugned order, one Dr. A.K.Jhanwar has also been transferred to the same hospital at Bemetara. State counsel could also not satisfy this Court as to whether there is vacant post of Surgical Specialist or any other higher post at Bemetara to accommodate the petitioner. Viewed from any angle, the impugned order is not only illegal but *per se* arbitrary.

5. Accordingly, this petition is allowed. The impugned order is quashed in so far as the petitioner is concerned.

Sd/-
(Manindra Mohan Shrivastava)
Judge