

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No.502 of 2017**

(Arising out of judgment/order dated 06.10.2017 in Case No.W.P.(S)
No.5286/2017 of the learned Single Judge

Rakesh Kumar Kashyap S/o Shri Kirti Kumar Kashyap Aged About 25 Years Ward Boy, Class I V Community Health Centre Bori, Tahsil Dhamdha District Durg Chhattisgarh, Presently Posted At Utai, District Durg Chhattisgarh. **---- Appellant**

Versus

1. Chief Medical And Health Officer District Durg 491001 Tahsil And District Durg Chhattisgarh.
2. Shri Premlal Dhankar Ward Boy, Community Health Centre Utai, Tahsil Durg, Block Durg, District Durg Chhattisgarh.New Address Ward Boy, Community Health Centre Bori, Tahsil Dhamdha District Durg Chhattisgarh.

---- Respondents

For Appellant:

Shri VG Tamaskar, Advocate.

For Respondents/State:

UNS Deo, Government Advocate.

Hon'ble The Chief Justice**Hon'ble Shri Justice Sanjay Agrawal****Order on Board****Per Thottathil B. Radhakrishnan, Chief Justice****29/11/2017**

1. We have heard learned Counsel for the Appellant and learned Government Advocate.
2. The second Respondent has been transferred from one Community Health Center to another. The Appellant/Petitioner has been transferred in lieu of that. Both are ward boys in the Community Health Centers in District Durg of Chhattisgarh State, though in two different Tahsils.
3. The learned Single Judge has taken the view that the transfer is an administrative action owing to an administrative exigency and it is as the

result of the decision of the executive to ensure that the second Respondent does not continue in a place where he was involved in misconduct. That finding essentially demonstrates that the learned Single Judge was focused on the issue as to the reason for the transfer. Though the learned Counsel for the Appellant argued that the transfer is only to accommodate the second Respondent, who is otherwise guilty of misbehaving with the patients including women after consuming alcohol, we cannot find fault with the decision of the learned Single Judge for upholding the situational administrative exigency and the impugned executive action.

4. We have looked into the materials on record. While we do not find any ground to interfere with the decision of the learned Single Judge, we think that it is necessary for the Government to evolve a proper policy in handling employees who are found to be in impermissible situations including consumption of alcohol while on duty in any Government establishment, more importantly in establishments like Community Health Centers and other medical service points where women and children are also to visit under circumstances of ill health.

5. We do not find that the impugned decision of the learned Single Judge could be treated as one which deserves to be interfered with through this Intra-Court Appeal by holding that discretion under Article 226 of the Constitution has been wrongly exercised. We therefore, refuse to interfere.

6. In the result, this Appeal is dismissed.

Sd/-
(Thottathil B. Radhakrishnan)
CHIEF JUSTICE

Sd/-
(Sanjay Agrawal)
JUDGE