

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 6291 of 2017

- Dr. Kantaram Vaidya S/o Shri Devlal Vaidya Aged About 48 Years R/o L - 4 , Rajeev Nagar Raipur District Raipur Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary Department Of Labour, Mantralaya Naya Raipur District Raipur Chhattisgarh.
2. The Director, Employees State Insurance Services Department Of Labour, Indravati Bhawan Naya Raipur District Raipur Chhattisgarh.
3. Insurance Medical Officer, Employee State Insurance Services, Choubey Coloney, Raipur District Raipur Chhattisgarh.
4. Dr. Utpal Chandraker, Insurance Medical Officer, Employees State Insurance Services Rajim District Gariyaband Chhattisgarh.

---- Respondent

For Petitioner	Shri Vikas Dubey, Advocate.
For Respondents	Shri Sangharsh Pandey, Dy. G.A.

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

22/11/2017

1. Petitioner would assail the order passed on the recommendation of the Committee of Senior Secretaries

by which his representation against the transfer order dated 14.08.2017 (Annexure P-9) has been rejected.

2. By the above said transfer order petitioner has been transferred from Employees State Insurance Hospital Siltara to Rajim on administrative grounds.
3. The petitioner would submit that the Respondent No.4 Dr. Utpal Chandraker has been brought from Rajim to Birgaon at his own request, therefore, it is apparent that the petitioner has been shifted from Siltara to Rajim to make way for the respondent No.4.
4. Learned State counsel would submit that the petitioner was posted at Siltara and not at Birgaon, therefore, the submission is ill founded. Learned counsel for the petitioner would rejoin to submit that by Annexure P-4 the petitioner was directed to work at Birgaon, however, subsequently again he was directed work at Siltara, therefore the malafide is writ large.
5. Bare perusal of the order Annexure P-9 would indicate that Dr. Utpal Chandraker is transferred to Birgaon not to Siltara, therefore, it is factually incorrect to submit that Dr. Utpal Chandraker has been brought to Siltara or that petitioner is sent to Rajim only to fill up the vacancy caused by transfer of respondent No.4. As and when an employee's request for transfer is allowed by the competent authority on any permissible ground, the vacancy has to be filled by some other officer, however, that by itself would not indicate that the order is malafide. It is not a case of transfer at mutual place. Even otherwise when the petitioner was transferred to Siltara vide order dated 30th July, 2016, he too was brought from Taraimal to

Siltara at his own request and another Doctor was posted at Taraimal, where the petitioner was working at that point of time. By the same yardstick or analogy, which has benefited the petitioner, the impugned order cannot be said to be malafide.

6. Although, the transfer order has been affected barely after one from the previous transfer, the circular dated 11th July, 2017 is in the nature of guideline, therefore, deviation from the circular is not enforceable through the writ Court unless the order adversely affects the service condition or it suffers from malafide or it violates any statutory provision.
7. For the above stated reasons, there is no force in the petition, therefore, the petition is dismissed.

Sd/-

Judge

Prashant Kumar Mishra

Akhilesh