

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 4322 of 2017

Dr. Anup Chatterjee S/o Late Shri Gopal Das Chatterjee, Aged About 55 Years Occupation Veterinary Assistant Surgeon District Veterinary Hospital, Bilaspur District Bilaspur Chhattisgarh.

---- **Petitioner**

Versus

1. State Of Chhattisgarh Through Secretary, Department Of Animal Husbandry & Veterinary Services, Mahanadi Bhavan, Mantralaya, New Raipur, District Raipur Chhattisgarh.
2. The Under Secretary, Department Of Animal Husbandry & Veterinary Services, Mahanadi Bhavan, Mantralaya, New Raipur, District Raipur Chhattisgarh.
3. The Director, Directorate Of Veterinary Services Indrawati Bhawan, Block Iii, Ground Floor, Naya Raipur, Tahsil & District Raipur Chhattisgarh.
4. Dr. B.P. Soni S/o Late Shri Budhsen Soni, Occupation Veterinary Assistant Surgeon At Joint Director Veterinary Services, Bilaspur District Bilaspur Chhattisgarh.

---- **Respondents**

For Petitioner	:	Mr. Parag Kotecha, Advocate
For State	:	Mr. Chandresh Shrivastava, Panel Lawyer

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

31/08/2017

Heard.

1. The transfer order is under challenge on the following grounds :
 - (a) That the petitioner has completed more than 55 years of age.
 - (b) That the petitioner's wife is also posted as Assistant Professor at Bilha which is near to Bilaspur and there is Government's policy to keep the husband and wife together as far as possible in a nearby station. Therefore,

he may not be posted at far off place.

(c) That the petitioner has been transferred to accommodate respondent No.4, who was earlier transferred to Bijapur but later on, his transfer order was cancelled.

(d) That the petitioner, as per circular dated 16.08.99 of Madhya Pradesh issued in the State of M.P., is entitled to be posted in 'A' Grade city as he has completed 29 years of service.

2. As far as the ground relating to posting of husband wife at the same or nearby station is concerned, said adjustment is always subject to administrative exigency and public interest. It cannot be claimed as of right. In any case, the petitioner and his wife are not posted at the same station but at different station. The petitioner has completed normal tenure of posting at Bilaspur. Therefore, this ground could only be considered by the competent authority and not by this Court. The other ground that the circular dated 16.08.99 requires posting of the officer, who have completed 29 years of service in 'A' grade station, is not shown to have been continued in the State of Chhattisgarh. There are not too many 'A' grade city and if that Policy is applied, it will create chaos. The other ground raised in the petition that the petitioner has completed more than 55 years of age and therefore, ordinarily, he should not have been posted in the core scheduled area as per clause 1.5 of policy dated 03.06.2015, is concerned, that would require consideration. According to this policy, as far as possible, those who have completed 55 years of age, may not be posted in core-scheduled area. Therefore, this is also a matter for consideration by the administrative authority.
3. The last submission that the petitioner has been posted only to accommodate respondent No.4, is based only on assertion that respondent No.4 was earlier transferred to Bijapur and later on, it was cancelled. Except this, there is no other material to show that it was done only to accommodate respondent No.4.
4. In the result, only on the two aspect of the policy of keeping the husband and wife together as far as possible and that the petitioner has completed more than 55 years of age, the petitioner's case may be considered by the competent authority in terms of clause 1.5 of policy dated 03.06.2015. As

representation has already been preferred by the petitioner, the same shall be considered and decided within four weeks from the date of receipt of copy of this order. For a period of six weeks, no coercive steps shall be taken against the petitioner to compel him to proceed on transfer.

5. The petition is accordingly disposed off.

Sd/-

(Manindra Mohan Shrivastava)
J U D G E

Rekha