

HIGH COURT OF CHHATTISGARH AT BILASPUR**Writ Petition (S) No. 4989 of 2018**

Ramesh Kumar Nag S/o Shri Lachindar Nag Aged About 33 Years O T Attendant At Proposed Transferred Place Office Of Chief Medical And Health Officer, Jagdalpur District Bastar Chhattisgarh.

---- **Petitioner**

Versus

1. State Of Chhattisgarh Through Secretary, Health And Family Welfare Department Mantralay, Police Station Rakhi Tahsil Arang, Naya Raipur District Raipur Chhattisgarh.
2. Director, Directorate Of Health Services, Indrawati Bhawan New Raipur District Raipur Chhattisgarh.
3. Collector, Bastar District Jagdalpur Chhattisgarh.
4. Chief Medical And Health Officer, Bastar District Jagdalpur Chhattisgarh.

----**Respondents**

For Petitioner	:	Shri Jai Prakash Shukla, Advocate.
For State	:	Shri Ashutosh Shukla, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy**Order on Board**

06/08/2018

1. The petitioner was originally transferred from Community Health Centre, Keshkal, Distt. Kondagaon to Community Health Centre, Nanpur, District Bastar vide order dated 30.07.2016. Though the petitioner was transferred, he was not relieved and therefore he was compelled to file a writ petition which was registered as WPS No. 409 of 2017 which finally stood disposed of on 27.02.2017 directing the petitioner to be adjusted at a suitable place where ever the post is available as the earlier order was made on his own request.
2. Pursuant to disposal of said petition, the petitioner made a detailed representation on 03.03.2017 specifically mentioning the vacancy that were available at different places in Bastar District where the petitioner could have been accommodated. Meanwhile, since there was no decision on the said representation, the petitioner again preferred a writ

petition WPS No.1873 of 2017 which came up for hearing on 20.04.2017 and this court disposed of the said writ petition mentioning following observations-

“3. Considering the contents of the communication issued from the office of the Chief Medical and Health Officer, Bastar, District Jagdalpur and the previous order of this court in WPS No.409 of 2017, the writ petition is disposed of with a direction that if the post of O.T. Attender is lying vacant at the Maharani Hospital, Jagdalpur, the State Government shall pass necessary order on the letter of recommendation sent by the Joint Director-cum-Hospital Superintendent, Maharani Hospital, Jagdalpur on 01.03.2017 and Director, Health Raipur's letter dated 06.03.2017. Let the necessary orders be passed within a period of 2 months from the date of submission of certified copy of this order.”

3. From a plain reading of the said observations of this court, it clearly reflects that what was expected from the respondent authorities was that if there was post of O.T. Attendant lying vacant at Maharani Hospital, Jagdalpur, the State shall pass necessary orders as recommended by the Joint Director-cum-Hospital Superintendent, Maharani Hospital, Jagdalpur on 01.03.2017 as also by the Director, Health, Raipur dated 06.03.2017. Subsequently, however the impugned order dated 09.07.2018 has been passed whereby the respondents have rejected the representation of the petitioner.
4. The documents enclosed with the petition as also the findings of WPS No.1873 of 2017 would reveal that there are post lying vacant at Maharani Hospital, Jagdalpur. However, in the impugned order, the respondents are totally silent so far as the vacancy position that is available at Maharani Hospital. There was a specific direction in this regard by this court to the State for considering the case of the petitioner. The impugned order seems to be totally without application

of mind and without taking into consideration the observations made by this court in its order dated 20.04.2017 in WPS No.1873 of 2017. Be that as it may, this court does not intend to keep this petition pending only for adjudication of this issue.

5. Since admittedly, the impugned order does not bear reference of compliance of the directives given by this court on 20.04.2017 inasmuch as the authorities concerned have not considered the availability of vacancy at Maharani Hospital, Jagdalpur, so also at other different places within District Bastar, the matter stands remitted back to the respondent No.1 to ensure that the case of the petitioner shall be considered once again in the light of the directives given by this court in WPS No. 1873 of 2017 on 20.04.2017 at the earliest possible time preferably within period of 45 days from the date of receipt of certified copy of this order.
6. Accordingly, the petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge