

HIGH COURT OF CHHATTISGARH, BILASPUR**WRIT PETITION (S) NO.6427 OF 2018**

Deepak Kumar Verma S/o. Shri Janak Ram Verma, Aged About 30 Years R/o Village Devrani, Post Maldi, District Balodabazar Bhatapara (Chhattisgarh).

...Petitioner(s)

Versus

1. State of Chhattisgarh Through The Secretary, Health And Family Welfair Department, Mahanadi Bhawan, Ministry New Raipur Chhattisgarh.
2. The Collector Gariyaband, District Gariyaband Chhattisgarh.
3. Chief Medical and Health Officer, Gariyaband, District Gariyaband Chhattisgarh.

... Respondent(s)

WRIT PETITION (S) NO.6431 OF 2018

Upendra Kumar Sahu S/o Shri Likeshwar Prasad Sahu Aged About 27 Years R/o Village Sahwada, Post - Bhawanipur, District Balodabazar Bhatapara Chhattisgarh.

...Petitioner(s)

Versus

1. State of Chhattisgarh Through The Secretary, Health And Family Welfair Department, Mahanadi Bhawan, Ministry New Raipur Chhattisgarh.
2. The Collector Gariyaband, District Gariyaband Chhattisgarh.
3. Chief Medical and Health Officer, Gariyaband, District Gariyaband Chhattisgarh.

... Respondent(s)

WRIT PETITION (S) NO.6432 OF 2018

Pawan Kumar Korrame S/o. Shri Naresh Kumar Korrame, Aged About 28 Years R/o Village Rengakathre, Thana Mohla, District Rajnandgaon Chhattisgarh.

...Petitioner(s)

Versus

1. State of Chhattisgarh Through The Secretary, Health And Family Welfair Department, Mahanadi Bhawan, Ministry New Raipur Chhattisgarh.
2. The Collector Gariyaband, District Gariyaband Chhattisgarh.
3. Chief Medical and Health Officer, Gariyaband, District Gariyaband Chhattisgarh.

... Respondent(s)

WRIT PETITION (S) NO.6428 OF 2018

Uttam Singh Dewangan S/o. Shri Ramdev Dewangan, Aged About 32 Years R/o Village Kukurdi, Post, Thana, Tahsil And District Balodabazar Bhatapara Chhattisgarh.

...Petitioner(s)

Versus

1. State of Chhattisgarh Through The Secretary, Health And Family Welfair Department, Mahanadi Bhawan, Ministry New Raipur Chhattisgarh.
2. The Collector Gariyaband, District Gariyaband Chhattisgarh.
3. Chief Medical and Health Officer, Gariyaband, District Gariyaband Chhattisgarh.

... Respondent(s)

For Petitioners	:	Shri Somkant Verma, Advocate.
For Respondent-State	:	Ms. Sunita Jain, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****28.09.2018**

1. These petitions have been filed against the order dated 19.09.2018 whereby the earlier order of relieving the petitioners from Gariyaband to Baloda Bazar has been cancelled.
2. The brief facts of the case is that, the petitioners stood transferred vide order order dated 27.03.2018 from Gariyaband to Baloda Bazar. Though the order was passed on 27.03.2018, but the petitioners have not been relieved which led to filing of writ petitions i.e. WPS No.4179 of 2018 (by the petitioners in WPS Nos. 6427, 6431 and 6432 of 2018) and WPS No.4085 of 2018 (by the petitioner in WPS No.4628 of 2018). The High Court considering the facts and circumstances of the case and keeping in view judgment of this court in case Ms. Manisha Agrawal Vs. State of Chhattisgarh and Others, 2015(4)CGLJ 182, vide orders dated 27.06.2018 as also 21.06.2018 made the following observations:

“4. The issue regarding implementation of transfer order has been considered by this Court in the matter of Ms. Manisha Agrawal Vs. State of Chhattisgarh and Others, 2015(4) C.G.L.J.182, wherein relying upon several judgments of the Supreme Court, it has been held by this Court that once the

employee has been transferred, it is required to be executed, unless it is modified, varied or cancelled by the State Government itself.

5. The matter in issue is squarely covered by the aforesaid order and also by the recent order passed by this Court on 21.06.2018 in Writ Petition (S) No. 4085/2018.

6. Therefore, in these circumstances, this petition is disposed off with the direction that the petitioner shall be relieved forthwith by the controlling authority in compliance of order dated 27/03/2018 passed by the State Government, unless the State has modified, varied or cancelled the impugned transfer order.”

3. Pursuant to the directives given by this court in the aforesaid writ petitions, the authorities concerned i.e. Block Medical Officer issued relieving order to the petitioners on 10.08.2018. However, before that order could have been given effect to, the respondent No.3 have issued the impugned order dated 19.09.2018 cancelling the relieving order issued by the Block Medical Officer.
4. The contention of the petitioners are that, by issuance of the impugned order dated 19.09.2018, the decision as it stands would fall back to the stage that stood while deciding WPS Nos. 4179 of 2018 and 4085 of 2018 whereby this court had directed the authorities concerned to act upon the order of transfer dated 27.03.2018. Further contention of the petitioners is that, the action on the part of the respondent No.3 is an contemptuous act for the reason that it amounts to non compliance of the directives given by this court passed in the earlier round of litigation. The petitioners further submits that once when there is a direction given by this court, the authorities concerned could not have sat over the order of

this court. The petitioner were not relieved inspite of their being an order of transfer which till date has not been cancelled or modified.

5. The State counsel on the contrary opposing the petitions submits that order Annexure P/1 itself shows the reason why the petitioners could not be relieved and the reason was that there was no reliever and further there was no vacant post available at the transferred place.
6. Given the said submissions made by either side and on perusal of records what cannot be brushed aside is the fact that there was a positive direction of this court on 27.06.2018 and 21.06.2018 while deciding WPS No.4179 of 2018 and WPS 4085 of 2018. Perusal of both the orders clearly reflect that in case if the order of transfer is not cancelled or modified, there is no reason why the petitioners could not have been relieved. The respondent No.3 on his own cannot sit upon the order of the High Court. The said decision of the respondent No.3 is not at all appreciable. Moreover, it also amount to deliberate non compliance of the orders of this court dated 27.06.2018 and 21.06.2018.
7. Another aspect which cannot be lost sight of is that by cancellation of the relieving order the position as it stands get rolled back and that the orders of High Court dated 27.06.2018 and 21.06.2018 have not been complied with.
8. Given all the aforesaid factual matrix of the case, let the respondent No.1 as well as respondent No.3 take an appropriate decision for ensuring that the orders of this court dated 27.06.2018 and 21.06.2018 passed in WPS No.4179 of 2018 and WPS No.4085 of

2018 is complied with at the earliest within a period of 45 days from today. It is the responsibility of the petitioners to apprise the respondents No.1&3 so far as order passed by this court is concerned.

9. Accordingly, all the petitions stand allowed and disposed of.

Sd/-
(P. Sam Koshy
Judge