

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**Writ Petition (S) No. 7948 of 2018**

Dr. Ashwini Dewangon S/o Shri H. P. Dewangan, Aged About 37 Years, Assistant Commissioner, Office Of Food And Drug Administration, Raipur, District Raipur, Chhattisgarh

**---- Petitioner**

**Versus**

1. State Of Chhattisgarh Through Secretary, Health And Family Welfare Department, Mahanadi Bhawan, Atal Nagar, Police Station New Raipur, Tahsil And District Raipur Chhattisgarh
2. Secretary, Food And Drug Administration Department, Mahanadi Bhawan, Atal Nagar, Police Station New Raipur, Tahsil And District Raipur Chhattisgarh
3. The Commissioner, Safety-Cum-Controller, Food And Drug Administration, Block-1, 4th Floor, Indrawati Bhawan, New Raipur, District Raipur, Chhattisgarh

**---Respondents**

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|----------------|---|--------------------------------------|
| For petitioner | : | Shri Vaibhav A. Goverdhan, Advocate. |
| For State      | : | Shri D. Wankhede, Govt. Advocate     |

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**Hon'ble Shri Justice P. Sam Koshy**

**Order on Board**

**04/12/2018**

1. The challenge in the present writ petition is to the order Annexure P-1 dated 03.10.2018 whereby the petitioner has been sent from the Food and Drugs Department to District Hospital Raipur.
2. Challenge to the present writ petition is on the ground that the petitioner presently is on deputation at the Food and Drugs Department and there is no order of the petitioner being repatriated to his original department. That unless there is an order of repatriation, the petitioner

could not have been transferred to a different department other than the Food and Drugs Department. It was the contention of the petitioner that the transfer order has been issued during the ban period and the same is without concurrence of the Minister of the concerned department. He submits that the provisions of transfer policy also has been violated and the provisions which have been quoted in the impugned order would not be applicable in the instant case. Thus, prayed for setting aside of the same.

**3.** The facts relevant to be taken note of while deciding the matter are that the petitioner is substantively an employee of respondent no.1 i.e. the Department of Health and Family Welfare. The petitioner in between vide Annexure P-3 dated 22.06.2015 was sent on deputation to the Food and Drugs Department. It is pertinent to mention that when the petitioner was sent on deputation without his consent, he did not raise any grievance whatsoever and promptly complied with the order. The order Annexure P-3 was issued by the same authority who has now issued the order of transfer. Moreover, the petitioner has worked in Food and Drugs Department from June, 2015 onwards continuously for a period of more than 3 years and vide the impugned order, the petitioner has been posted back to the District Hospital, Raipur on administrative exigency.

**4.** When the petitioner for the first time did not have any objection or grievance when he was sent on deputation by the State Govt. without his consent, the petitioner now cannot turn around and question the same authority who has now transferred the petitioner from one department to another department though the petitioner is on deputation.

**5.** This Court is reluctant to entertain the writ petition for the reason that firstly the petitioner has already served more than 3 years at the Food and Drugs Department. Secondly the petitioner has been transferred

within the city itself i.e. from one department in Raipur to another department within Raipur city itself. This again would not cause any prejudice to the interest of the petitioner whatsoever so far as the service conditions are concerned. So far as the violation of transfer policy is concerned, the law is no longer res integra that any policy of the State Govt. would only be a guideline for the State Govt. which may not be a mandatory provision to be followed. When the service of the petitioner is transferable and it is not the case that transfer has been made in violation of any of the service conditions governing the service rules of the petitioner, the scope of interference gets minimal.

6. Given the said facts, this Court is of the opinion that the present writ petition does not warrant any interference by this Court in exercise of its power under Article 226 of the Constitution of India. The fact that the petitioner has been transferred within the city itself has laid to the filing of the present writ petition is what is surprising to this Court and filing of the present writ petition questioning the same also seems to be totally uncalled for. Thus, It is a fit case where the petition deserves to be dismissed with heavy cost as the petitioner has unnecessarily wasted the precious time of the Court.

7. Accordingly, the writ petition stands dismissed with a cost quantified at Rs. 15,000/- to be paid within a period of 30 days from today to the High Court Legal Services Authority failing which the Authority would be at liberty to initiate recovery proceeding for the same.

**Sd/-**

**(P. Sam Koshy)**  
**JUDGE**