

HIGH COURT OF CHHATTISGARH AT BILASPUR**Writ Petition (S) No. 250 of 2019**

Dr. Smt. Kalawati Patel W/o Shri V. P. Patel, Aged About 55 Years,
 Posted As Medical Officer, District Hospital Baikunthpur,
 Baikunthpur, District Korea, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Health And Family Welfare, Mantralaya, Mahanadi Bhawan, Atal Nagar, District Raipur, Chhattisgarh
2. Director, Directorate Of Health Services, Indravati Bhawan, Atal Nagar, District Raipur, Chhattisgarh
3. Chief Hospital Superintendent, District Hospital Baikunthpur, District Korea, Chhattisgarh

---- Respondents

For Petitioner	:	Shri Amrito Das, Advocate
For State	:	Shri Sameer Behar, P.L.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****15/01/2019**

1. Present is a second round of litigation. The issue revolves around the order of transfer dated 30.07.2017. The petitioner while working as a Medical Officer at the District Hospital, Baikunthpur, District Korea was transferred to District Hospital, Gariyaband. The petitioner had challenged the order of transfer in WPS No. 52 of 2017. The writ petition got disposed of vide order dated 05.01.2017. While disposing of the writ petition this Court made the following directions:

“4. Considering that the petitioner has approached this Court after about more than 5 months, I am not inclined to keep this matter pending, however, the representation of the

petitioner has already been moved and taking into consideration that the petitioner's son will be appearing in State Board Examination in the month of February, 2017, the respondent-authority is directed to consider the petitioner's representation in the light of order passed by the Division Bench in the case of Chonhas Toppo (supra) and take a decision within a period of six weeks by passing an appropriate order. The State shall also consider the aspect of continuing the petitioner till the examination of the petitioner's son is over, in case, the representation of the petitioner for transferring outside the scheduled area is not accepted on any administrative exigency. The decision shall positively be taken within a period of six weeks. For a period of six weeks, the petitioner shall be allowed to continue at the present place of posting.”

2. The respondents did not decide the representation of the petitioner and kept the matter pending and abruptly vide the impugned order dated 20.12.2018 (Annexure P-1) have ordered that the petitioner should immediately join at Gariyaband.

3. Contention of the counsel for the petitioner is that the direction given by this Court while disposing of the earlier writ petition wherein this Court had directed to consider the case of the petitioner in the light of the Division Bench decision of this High Court in the case of Chonhas Toppo vs. State of Chhattisgarh and others passed in Writ Appeal No. 549/2016 decided on 14.12.2016 was not considered. The further contention of the counsel for the petitioner is that the petitioner has already worked in a scheduled area for a considerable period of time that was also required to be considered by the State authorities.

4. The impugned order Annexure P-1 seems to be silent on both these issues.

5. Given the said facts and circumstances of the case, this Court is of the opinion that the impugned order needs reconsideration. Accordingly, it is directed that the respondents shall reconsider the representation of the petitioner. The petitioner would also be entitled to make a fresh representation within a period of two weeks from today and on such

representation being made, the authorities concerned would decide the same in accordance with the rules, regulations and the guidelines governing the field of transfer.

6. The writ petition accordingly stands disposed of. Till the representation is reconsidered, the respondents are restrained from giving effect to the impugned order Annexure P-1.

Sd/-
(P. Sam Koshy)
JUDGE

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