

HIGH COURT OF CHHATTISGARH AT BILASPURWPS No. 1203 of 2019

Kalika Prasad Dubey S/o Shri Radha Vallabh Dubey, Aged About 58 Years, R/o Anand Nagar, Rajgharana House No. A-38, Uslapur Tahsil Takhatpur, District Bilaspur, Chhattisgarh, Presently Posted As Supervisor (Male) Sakri, Tahsil Takhatpur, District Bilaspur, Chhattisgarh.

---Petitioner

Versus

1. The State Of Chhattisgarh, Through The Secretary, Department Of Health And Family Affairs, Mahanadi Bhawan, Mantralaya, Naya Raipur, Tahsil And District Raipur, Chhattisgarh.
2. The Director, Medical Health, Near D. K. S. Bhawan, Old Nurse Hostel Raipur, Chhattisgarh.
3. Chief Medical And Health Officer, Office Of The CMO Sipat Road, Bilaspur, Chhattisgarh.
4. Block Medical Officer, Community Health Center, Takhatpur, District Bilaspur, Chhattisgarh.

---Respondents

For petitioner	:	Shri Faiz Kazi, Advocate.
For State	:	Shri Rahul Mishra, Dy.G.A.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

22/02/2019

1. The challenge in the present Writ Petition is to the order Annexure-P/1 dated 22/01/2019 whereby the representation which the petitioner had filed against the order of transfer dated 13/08/2017 has been rejected.
2. The facts of the case in brief is that, the petitioner was working as a Supervisor at the P.S.C., Kota when the petitioner was promoted vide order dated 06/03/2013 from the post of Rural Health Organizer to the post of Supervisor. While passing the order of promotion, the place of posting

provided to the petitioner was Sakri, District Bilaspur. The petitioner right from 2013 till date is working at the P.S.C., Sakri.

3. Subsequently, the order dated 13/08/2017 was passed whereby the petitioner has been shown to have been transferred from P.H.C., Hamsena to Community Health Centre, Marwahi on administrative grounds.

4. This order was subjected to challenge in WPS No. 5717/2017. The said Writ Petition stood disposed off with an interim protection in favour of the petitioner to make a representation and till the representation is decided, the petitioner should not be relieved. The primary contention of the petitioner at that point of time was that the order of transfer dated 13/08/2017 was made by playing fraud with the petitioner in as much as somebody has impersonated a request letter on behalf of the petitioner seeking transfer and the choice of place of posting sought for was Sivni as the first choice, Marwahi as the second choice and third choice being Amadand.

5. The respondents without taking decision on the representation so made by the petitioner thereafter issued an order on 25/08/2018 insisting upon the petitioner to immediately join at Marwahi.

6. The petitioner again approach the Court vide a fresh Writ Petition i.e. WPS No. 6002/2018. This Court again disposed off the said Writ Petition with an interim protection and directing the respondents to decide the representation which the petitioner has made before acting upon the order dated 25/08/2018 and the order of transfer dated 13/08/2017. Subsequently, the impugned order – Annexure-P/1 has been passed.

7. The contention of the petitioner in the instant Writ Petition also is that, the said impugned order has been passed at the behest of some unknown person who has played mischief by sending forged letter of request transfer made on behalf of the petitioner and the said mischief is reflected from the fact that in the order of transfer, the petitioner's place of posting has been reflected at P.H.C., Hamsena, District Bilaspur whereas the petitioner infact is working at Sector Sakri and Hamsena is one of the centres under Sikri.

8. On a query being put to the counsel for the petitioner he fairly submits that, the petitioner at the present place of posting is working since last 6 years. Moreover, the petitioner on the earlier occasion also had been working in the nearby vicinities not far from the present place of posting. The order of transfer dated 13/08/2017 does not reflect that the alleged forged request letter has been exceeded by the department and the transfer of the petitioner has been made on his request, rather the order of transfer shows that, the petitioner has been transferred on administrative grounds and therefore the contention of the petitioner that the order has been passed with malafide intention at the behest of some impostor is not acceptable at this juncture.

9. Moreover, it is a case where the petitioner has already served at the present place of posting for a period of more than 6 years.

10. Given the said facts, this Court is not inclined to entertain the instant Writ Petition.

11. The counsel for the petitioner at this juncture submits that, the petitioner had an interim protection in his favour right from 02/11/2017 onwards in as much as the petitioner got an interim protection at first instance in WPS No.5717/2017 on 02/11/2017 and again in WPS No.6002/2018 on 18/09/2018 and therefore the petitioner should not be treated to have already been relieved from the present place of posting and should be treated as in service till now.

12. The said contention of the petitioner seems to have some force in the light of the interim protection granted by this Court in the two Writ Petitions i.e. the petitioner on earlier occasion had filed

13. The fact that the present Writ Petition is being dismissed today, the respondents would be at liberty to pass a fresh order of relieving to the petitioner to the transfer place as per the order of transfer dated 13/08/2017.

14. The Writ Petition with the aforesaid observation stands disposed off.

Sd/-

(P. Sam Koshy)
JUDGE

Sumit