

HIGH COURT OF CHHATTISGARH, BILASPUR**WRIT PETITION (S) NO.2038 OF 2019**

Chandrakant Banjare S/o Shri Sukhlal Banjare Aged About 29 Years
Working As Block Accounts Manager Community Health Center, Saraipali
District Mahasamund, Chhattisgarh.

...Petitioner(s)**Versus**

1. State Of Chhattisgarh Through The Secretary, Health And Family Welfare Department Mantralaya, Atal Nagar, New Raipur, Chhattisgarh.
2. The Director Health Services Chhattisgarh Indravati Bhawan, New Raipur, Chhattisgarh.
3. The Mission Director National Health Mission Chhattisgarh, New Raipur, Chhattisgarh.
4. The Chief Medical And Health Officer District Mahasamund, Chhattisgarh.
5. The Block Medical Officer Community Health Center, Saraipali, District Mahasamund, Chhattisgarh.
6. Vinay Kumar Pradhan Block Accounts Manager Community Health Center Tumgaon, District Mahasamund, Chhattisgarh.

... Respondent(s)

For Petitioner	:	Shri Raghvendra Pradhan, Advocate.
For Respondent-State	:	Ms. Shriya Mishra, Panel Lawyer.
For Respondent No.6	:	Shri CJK Rao, Advocate.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****20.03.2019**

1. Challenge in this petition is the order dated 02.03.2019 (Annexure P/1) whereby the petitioner who was working as Block Accounts Manager, Community Health Centre Saraipali has been transferred to Community Health Centre, Tumgaon, Block Mahasamund.
2. The challenge by the petitioner to the order is on the ground of competency of the officer and the fact that the petitioner as of now could not have been transferred under the policy governing the field. The contention of the petitioner was that the person who could transfer the petitioner was the Mission Director whereas, the order of transfer has been passed by the Chief Medical Health Officer of

District Mahasamund, thus it is bad in law. The other ground raised by the petitioner is that the policy governing the service conditions of the petitioner does not permit transfer within five years from the date of appointment. In the instant case, the petitioner has been appointed in the year, 2017 and therefore also the petitioner under the policy could not have been transferred.

3. At this juncture this court is not inclined to entertain both the grounds raised by the petitioner for the simple reason that from perusal of records it appears that in the past the petitioner had made an application for mutual transfer to be made from Saraipali to Tumgaon with one Vinay Kumar Pradhan who was working as Block Accounts Manager at Community Health Centre, Tumgaon. The impugned order shows that the respondents have only acceded to the request made by the petitioner and have made a mutual transfer of the petitioner with Vinay Kumar Pradhan from Saraipali to Tumgaon.
4. The petitioner also raised an objection in respect of the action on the part of the respondents in accepting the application for mutual transfer after one year.
5. The said ground of the petitioner also is not sustainable for the reason that if the grievance of the petitioner stood redressed in the previous year itself, nothing prevented him from moving an appropriate application before the authorities withdrawing his request for mutual transfer. Having not done so, it would always be presumed that the petitioner's claim for mutual transfer still subsisted and the respondents have rightly, under the said circumstances,

processed the claim of the petitioner and have passed the transfer order.

6. On a query being put to the counsel for the petitioner, he accepts the fact that in the past he had made a request for mutual transfer, though according to the petitioner he had subsequently made an oral request for withdrawal of the said application, but there is no proof of the same.
7. Given the facts that the respondents having acceded to the request made by the petitioner for mutual transfer, this court does not find any strong case made out by the petitioner calling for an interference with the impugned order of transfer. At this juncture, if the petitioner have any personal inconvenience in complying with the transfer order, he has a right of making representation to the authorities in the department who, in turn, are expected to consider and decide the same in accordance with rules governing the field.
8. Accordingly, the writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge