

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 5065 of 2019

Dr. Shashi Kumar Jaiswal S/o Shri Dhani Ram Jaiswal Aged About 34 Years Working As Medical Officer, Community Health Center, Kasdol, District Balodabazar Bhatapara Chhattisgarh.

---- Petitioner(s)

Versus

1. State Of Chhattisgarh Through The Secretary, Health And Family Welfare, Department, Mahanadi Bhawan, New Raipur Chhattisgarh.
2. The Chief Medical And Health Officer Balodabazar, District Balodabazar Bhatapara Chhattisgarh.

---Respondents

For Petitioner	:	Shri Somkant Verma, Advocate.
For State	:	Shri Jitendra Pali, Dy. A.G.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

10.07.2019

1. Challenge in the present Writ Petition is to the order Annexure-P/1 dated 27.05.2019 whereby the petitioner has been transferred from Community Health Centre, Kasdol, Baloda Bazar to District Hospital, Bemetara (CG).
2. The counsel for the petitioner submits that the transfer order has been issued without any administrative exigency. The impugned order is contrary to the transfer policy issued by the State Govt. inasmuch as the wife of the petitioner is also an employee of Health Department and is posted at Balodabazar. He further submits that in the transfer policy the State has framed a guidelines to keep Husband and Wife at one place or nearby place which has not been considered by the respondents in the present case.
3. The State counsel opposing the petition submits that the order of transfer has been issued on administrative exigency looking into requirement of work in different offices of the State Govt. under the respondents. Thus, the impugned order does not warrant any interference.

4. It is trite law that transfer is an incident of service and it is for the employer to decide as to where a particular officer/employee be posted keeping in view the public interest as well as the administrative exigency. This Court has limited jurisdiction to interfere in the transfer matter and this Court can interfere only in the case of proved mala fide, non-competence of authority passing the transfer order or when the transfer order not being in conformity with the rules and regulations. The petitioner/employee cannot be permitted to remain at one place, forever, by the Court orders. It is not a case of proved malafide, lack of competence of the officer passing the transfer order or infraction of any statutory Rules and Regulations.
5. The transfer policy is mere guidelines. The transfer policy may not supplant the general powers of employer provided under the statutory service rules i.e. to post a person at a place in the public interest and in administrative exigency. There is no allegation or contention that the order was not passed in public interest.
6. Given the aforesaid facts and circumstances of the case, particularly taking into consideration the entire factual matrix of the case, this court is of the opinion that ends of justice would meet if the writ petition is disposed of with a direction to the petitioner to approach the authorities for ventilating his grievances by making a detailed representation within a period of 15 days from today and the respondents are expected to decide the same within a further period of 45 days from the date of receipt of representation by the petitioner.
7. The Writ Petition accordingly stands disposed off.

Sd/-
(P. Sam Koshy)
Judge