

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 5270 of 2019

Dr. Ram Narendra Netam S/o Late Shri C.S. Netam Aged About 63 Years
R/o G-11, Agrasen Nagar, Ring Road No. 01 Raipur, District Raipur
Chhattisgarh., District : Raipur, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Health And Family Welfare, Mahanadi Bhawan, Mantralaya, Atal Nagar, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
2. The Director Health Services, Directorate, Indrawati Bhawan, Atal Nagar, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
3. The Secretary Department Of Transport, Mahanadi Bhawan, Mantralaya, Atal Nagar, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
4. Inter Department Lead Agency (Road Safety) Through The Joint Commissioner Transport (Road Safety), Police Headquarter, Naya Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

---Respondents

For Petitioner	:	Mr. Pranjal Shukla, Advocate
For State	:	Ms. Sunita Jain, G.A.

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

22/07/2019

1. The challenge in the present writ petition is to the order Annexure P/1 dated 29.06.2019, whereby the services of the petitioner has been sent on deputation to the respondent No.4, an agency constituted in compliance of a directives given by the Hon'ble Supreme Court.
2. The contention of the petitioner primarily seems to be that sending of the petitioner on deputation is bad as the same is without any consent being obtained by the Department and without the consent, the services of the petitioner could not have been sent on deputation.
3. The other contention of the petitioner is that the petitioner was initially appointed as a Medical Officer way back in the year 1982 and down the

line, he has got the promotion and has reached the post of Chief Medical and Health Officer in the respondent, a post on which he got promoted way back in the year 2007. The petitioner now on deputation is being sent on the post of Medical Officer, whereas the petitioner already was promoted as a Chief Medical and Health Officer about 12 years back. That vide the impugned order, the petitioner is now being sent to discharge a duty, which he was otherwise discharging in the year 1982 when he was appointed, thus, the order is bad.

4. It was further the contention of the petitioner that the petitioner was issued with an order of relieving on 09.07.2019 and the order of transfer was served upon him later on i.e. on 11.07.2019. The further contention of the petitioner is that there are a large number of Medical Officers available with the respondents, who could have been sent on deputation to the respondent No.4 instead of sending a person, who is the senior most person on the promoted post of Chief Medical and Health Officer in the Department.
5. Given the aforesaid facts and circumstances of the case, this Court is of the opinion that once when the petitioner stood promoted as a Chief Medical and Health Officer in the year 2007 and since then he is discharging the duties of the same post, the petitioner should not have been sent on deputation that to without his consent on a post lower than the post, which he holds in the Department. If the petitioner would have given a consent for the same, then the action could not have been challenged. Without taking consent, if the petitioner is being sent on a lower post, the same may have an adverse impact so far as the status that the petitioner is presently enjoying. Moreover, if the petitioner is relieved,

the petitioner who is already due for next promotion to the post of Joint Director in the Department, the petitioner may lose the benefits of the same.

6. Given the aforesaid facts and circumstances of the case, this Court is of the opinion that ends of justice would meet if the respondents No.1 & 2 are directed to reconsider the posting of the petitioner made vide Annexure P/1 dated 29.06.2019 and reconsider whether it is necessary for sending the petitioner himself, that to without his consent to the respondent No.4-Agency. The respondents No.1 & 2 shall also explore the possibility of sending another person in the said committee who in fact substantively is holding the post of a Medical Officer in the Department.
7. Let this exercise be completed by the respondents No.1 & 2 within a period of 45 days from the date of receipt of the copy of this order. Meanwhile, the order of transfer dated 29.06.2019 and the subsequent relieving order dated 09.07.2019 shall not be given effect to and the petitioner would be permitted to discharge his duties that he was doing prior to the issuance of the impugned order dated 29.06.2019.
8. With the aforesaid observations, the present writ petition stands allowed and disposed off.

Sd/-
(P. Sam Koshy)
Judge

Ved