

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 9679 of 2019**

- Rameshwar Sahu, S/o Late Shri Darbariram Sahu, Aged About 50 Years, Occupation- Rural Health Coordinator (Male), Sub-Health Center, Kirgoli, Block- Kanker, District- North Bastar Kanker, Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh, Through The Secretary Health And Family Welfare Department, Mahanadi Bhawan, Mantralaya Atal Nagar, New Raipur, District- Raipur, Chhattisgarh.
2. The Director Health Services, Chhattisgarh, Raipur, Chhattisgarh.
3. The Collector District- North Bastar Kanker, Chhattisgarh.
4. The Chief Medical And Health Officer District- North Bastar Kanker, Chhattisgarh.
5. The Transfer Coordination Committee Government Of Chhattisgarh, Mahanadi Bhawan, Mantralaya, New Raipur, Chhattisgarh.

---- Respondents

For Petitioner	:	Shri D.N. Prajapati, Advocate
For Respondents/ State	:	Shri Avinash Singh, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****26/11/2019**

Heard.

1. This is second round of litigation. The petitioner was transferred from Sub Health Centre, Kirgoli to Sub Health Centre, Tuskal. The petitioner had challenged the same in the earlier round of litigation in WPS No. 6093 of

2019 wherein this Court on 16.08.2019 has passed the following orders:

2. The contention of the petitioner is that, the petitioner falls within the protected category as he is the District Secretary of Swasthya Sanyojak Karmachari Sangh, Chhattisgarh.
 3. Given the aforesaid facts, let the petitioner make a representation in this regard to the respondent No.3 within a period of 10 day from today along with copy of transfer policy of the State highlighting the aspect of the petitioner being under the protected category, and the respondent No.3, in turn, shall consider and decide the same in accordance with transfer policy at the earliest preferably within a further period of 30 days. Till the representation of the petitioner is decided, the effect and operation of the order dated 12.07.2019 shall remain stayed so far as petitioner is concerned.
 4. The interim order has been made on the contention of the petitioner that there is no replacement made in the transfer order so far as petitioner's place is concerned.
 5. The writ petition accordingly stands disposed of.
2. Subsequently, it is contended that two representation has been decided one by the Collector dismissing the representation and another by District Redressal Committee which has been constituted to hear the grievance of the petitioner. It is contended that petitioner has been continuously transferred from 2006 i.e. 7 times and no notice ever has been given for incapacity of discharging his work. Therefore, the petitioner cannot be transferred.
 3. Learned State counsel opposes the same.
 4. Perused the documents.
 5. Perusal of the earlier order passed on 16.08.2019 would show it was projected that the petitioner is a District Secretary of Swasthya Sanyojak Karmachari Sangh, Chhattisgarh and on that ground the transfer was

sought to be cancelled. The rejection of the representation would show that it is observed that Swasthya Sanyojak Karmachari Sangh, Chhattisgarh is not a recognized union by the State thereby there is no violation of the transfer policy of the State specially clause 1.4. The rejection of the representation also contains the fact that the opinion was obtained for the Collector Uttar Baster and examining the same it was observed that the transfer has been made on the administrative ground. As finding has been given that the post which the petitioner holds is not in a recognized union, therefore, now the same cannot be adjudicated that the petitioner comes under the protected category. Further, transfer being incident of service, unless and until it is malafide or illegal on the face of it, the transfer do not call for any interference. In a result, I am not inclined to interfere with the order of dismissing the representation of the petitioner.

6. Accordingly, the petition stands dismissed.

Sd/-

Goutam Bhaduri
Judge

Jyoti