

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 9548 of 2019**

Birendra Kumar Khare S/o Late Paras Ram Khare Aged About 30 Years
Presently Working As Project Officer, Integrated Child Development Service
Project, Baikunthpur, District Koriya, Chhattisgarh., District : Koriya
(Baikunthpur), Chhattisgarh **--- Petitioner**

Versus

1. State of Chhattisgarh through- the Secretary, Women and Child Development Department, Mantralaya, Mahanadi Bhawan, Atal Nagar, Nawa Raipur, District Raipur, Chhattisgarh
2. Director Women And Child Development Department, Indrawati Bhawan, Atal Nagar, Nawa Raipur, District Raipur, Raipur, Chhattisgarh
3. Collector Baikunthpur, District Koriya, (Baikunthpur), Chhattisgarh
4. District Program Officer I.C.D.S., Women And Child Development Department, Baikunthpur, District : Koriya (Baikunthpur), Chhattisgarh **--- Respondents**

For the Petitioner : Mr. C.Jayank K. Rao, Advocate

For the State : Mrs. Richa Shukla, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri**Order on Board****21-11-2019**

1. This is second round of litigation. In the earlier round, when the petitioner was transferred from Baikunthpur District Korea to Bijapur, District Bijapur vide order dated 21.08.2019 which was under challenge in WPS No. 6726 of 2019 wherein this Court has passed the following order.

“2. The ground of challenge is that the wife of the petitioner is also working in the same field and is presently posted at Bhatgaon, Distt. Baloda Bazar and is at an advance

stage of pregnancy. She has not been transferred and the transfer policy contains a clause for accommodating the husband and wife at the same place or a nearby place as far as possible.

3. Considering the aforesaid facts, let the petitioner make a detailed representation within a period of 10 days from today and on receipt of the representation the authorities concerned shall decide the same within a period of 45 days.

4. Till the representation of the petitioner is decided, the impugned order Annexure P-1 shall remain stayed.

5. With the aforesaid observation, writ petition accordingly stands disposed of.”

2. It is contended that thereafter the representation has been decided by Respondent No.1 and it has not been considered that according to the transfer policy the husband and wife are to be kept at the same place. It is further contended that in critical condition, the wife of petitioner has delivered a premature baby on 28.10.2019 and as per the medical certificate (Annexure P-9) the weight of the baby is very low and it needs readmission in hospital and further period of 3-4 months is crucial for monitoring the baby. Therefore, the transfer may not be given effect to for some period of time that is upto 10.03.2020 as per Annexure P-9.

3. On perusal of the impugned order dated 11.11.2019 rejecting the representation of the petitioner, I do not find any illegality as the transfer is an incidence of service and the order cannot be said to be tainted with any mala-fide or illegality. Normally the husband and wife are kept at one place, however, the same cannot be claimed as a matter of right and it is the prerogative of the employer/State to post a particular person at a particular place.

4. However, a perusal of the medical certificate (Annexure P-9) shows that a premature infant was born with low weight on 28.10.2019 and it needs readmission and further 3-4 months are crucial for monitoring baby.
5. Taking into account the medical ground, it is directed that the transfer order of the petitioner whereby he has been transferred from Baikunthpur (Distt. Korea) to Bijapur (Distt. Bijapur) will not be given effect till April, 2020.
6. With such observation, this writ petition stands disposed off.

**Sd/-
GOUTAM BHADURI
JUDGE**