

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 10156 of 2019**

- Sangeeta Yadav D/o Late Shri P.L. Yadav Aged About 37 Years Posted As Project Officer, Integrated Child Development Project, Bilaspur, District Bilaspur, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, Women And Child Development Department, Mahanadi Bhawan, New Raipur, District Raipur, Chhattisgarh
2. Director Women And Child Development Department, Indrawati Bhawan, New Raipur, District Raipur, Chhattisgarh

---- Respondents

For Petitioner : Shri Anup Majumdar, Advocate

For Respondents/State : Ms. Akanksha Jain, Dy. GA

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****04/12/2019**

1. Heard.
2. This is the second round of litigation. In the earlier round of litigation in WPS No.6915 of 2019 the challenge was made to the transfer order dated 21.08.2019 whereby the petitioner was transferred from the post of Supervisor of Integrated Child Development Project, District Bilaspur to Lundra, Ambikapur. This Court in WPS No.6915 of 2019 has passed the following order:-

“1. The challenge in the present writ petition is to the impugned order (Annexure P/1) dated 21.08.2019 , whereby the petitioner has been transferred from the post of Supervisor of, Integrated Child Development Project, District Bilaspur to Lundra, Ambikapur.

2. The limited grievance that the petitioner has made in the present writ petition is for an appropriate direction to the respondent No.1 to consider the case of the petitioner for being posted anywhere in the State of Chhattisgarh and the request is only of being posted at the concerned district headquarter. The reason for posting in the concerned district headquarter is that the petitioner needs medical attention because of the treatment of epilepsy that the petitioner is undergoing.
 3. Given the aforesaid contention that the petitioner has made, let the petitioner make a detailed representation to the respondent No.1 within a period of 10 days from today and the respondent No.1 in turn shall consider the request of the petitioner sympathetically in accordance with the transfer policy of the State Government at the earliest preferably within a further period of 30 days from the date of receipt of representation. Meanwhile, there shall be a stay of the effect and operation of the impugned order, so far as the petitioner is concerned.
 4. With the aforesaid observations, the present writ petition stands disposed off.”
3. Learned counsel for the petitioner would submit that pursuant to the order passed by this Court on 05.09.2019, the petitioner suffered an attack of epilepsy and it has caused injury to the spine. He referred to the various documents including the M.R.I. scan dated 03.10.2019 and would submit that presently the petitioner is taking her treatment at Appolo Bilaspur, however, while deciding the representation of the petitioner, the said aspect is not been considered and in mechanical way the order is passed.
4. Perused the earlier order passed by this Court as also the representation filed by the petitioner. Along with the petition the other medical documents have been filed, which shows that the petitioner has suffered epilepsy after the orders were passed by this Court on 05.09.2019. The representation of the petitioner is also perused. Wherein she has also stated that she is suffering with the disease of epilepsy and she is getting treatment at Appolo Bilaspur, as against this the representation of the petitioner has been decided and no reason has been assigned while deciding the representation.

5. The Supreme Court in the case of ***Secretary and Curator, Victoria Memorial Hall Versus Howrah Ganatantrik Nagrik Samity and others*** {(2010) 3 SCC

732} has held thus in para 41 & 42 which are reproduced herein below:-

41. Reason is the heartbeat of every conclusion. It introduces clarity in an order and without the same, it becomes lifeless. Reasons substitute subjectivity by objectivity. Absence of reasons renders the order indefensible/unsustainable particularly when the order is subject to further challenge before a higher forum. [Vide Raj Kishore Jha Vs. State of Bihar AIR 2003 SC 4664; Vishnu Dev Sharma Vs. State of U P (2008) 3 SCC 172; SAIL Vs. STO (2008) 9 SCC 407; State of Uttaranchal Vs. Sunil Kumar Singh Negi AIR 2008 SC 2026; U.P.S.R.T.C. Vs. Jagdish Prasad Gupta AIR 2009 SC 2328; Ram Phal Vs. State of Haryana (2009) 3 SCC 258; Mohd Yusuf Vs. Faij Mohammad (2009) 3 SCC 513; and State of H P Vs. Sada Ram (2009) 4 SCC 422].

42. Thus, it is evident that the recording of reasons is principle of natural justice and every judicial order must be supported by reasons recorded in writing. It ensures transparency and fairness in decision making. The person who is adversely affected may know, as to why his application has been rejected.

6. In view of this the matter is remitted back to the respondent No.1 to decide the representation of the petitioner and the petitioner is directed to file afresh representation before the respondent No.1 placing the other medical documents and the respondent No.1 in turn shall decide the same within a period of 45 days from the date of receipt of the representation. It is expected that the humanitarian grounds will hold the sway while deciding the representation. Till the representation of the petitioner is decided, the transfer order of the petitioner shall not be given effect to.

7. With the aforesaid observation, the writ petition stands disposed of.

Sd/-

Goutam Bhaduri
Judge