

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 10500 of 2019

- Kalpana Samuel, D/o Late C.B. Samuel, Aged About 51 Years, Posted As Lab Technical, R/o Quarter No. 32, Sakuntala Colony, Baikunthpur, Tahsil Baikunthpur, District Korea, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Health And Family Welfare Department, Mantralaya, Atal Nagar, New Raipur, Chhattisgarh.
2. The Director Directorate Of Health Services, Chhattisgarh, Indravati Bhawan, Raipur, Chhattisgarh.
3. The Collector Baikunthpur, District Korea, Chhattisgarh.
4. The Chief Medical And Health Officer District Korea, Chhattisgarh.
5. Afsana Anjum Posted As Lab Technician, Primary Health Center, Barpara, District Korea, Chhattisgarh.
6. The Block Medical Officer Community Health Center, Patna, District Korea, Chhattisgarh.
7. The Grievance Redressal Committee Government Of Chhattisgarh, Atal Nagar, Nawa Raipur, Chhattisgarh.

---- Respondents

For Petitioner	:	Shri Rahul Mishra, Advocate
For Respondents/ State	:	Shri Ravish Verma, Government Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

12/12/2019

Heard.

1. This is second round of litigation. The petitioner was transferred from Community Health Centre, Patna to Primary Health Centre, Kotadol (Janakpur). This was subject of challenge in the WPS No. 5439 of 2019

where in this Court on 29.07.2019 passed the following orders:-

1. The learned counsel for the petitioner submits that, the petitioner has been transferred from Community Health Center, Patna to Primary Health Centre, Kotadol (Janakpur) vide order dated 12.07.2019 on the administrative ground. It is contended that, the petitioner's mother is suffering from brain hemorrhage and is admitted in I.C.U.. It is contended as on date that the petitioner is also suffering from Hepatitis-B.
2. The petitioner further submits that, the service of the petitioner was transferred to accommodate someone else in place of the petitioner without any just cause. It is stated the petitioner though has been stated to be transferred on the ground of administrative exigency but the same do not exist at all.
3. Perusal of the document annexed along with the petition shows that the present status of the mother of petitioner said to be suffering from Brain Hemorrhage and is admitted in I.C.U. and is on ventilatory support which is evident from certificate dated 18.07.2019 filed along with petition.
4. In view of the medical document after their perusal, the petitioner is given liberty to make representation before the committee constituted to raise the grievance against the transfer within a period of 15 days from today. The committee may decide the representation of the petitioner within further 45 days from date of filing representation. In the meanwhile, the transfer in respect of petitioner shall not be given effective till the decision is arrived by the Committee.
5. With the aforesaid observations, the present Writ Petition stands disposed off.

2. Learned counsel for the petitioner submits thereafter on 07.10.2019 (Annexure P-4) the Collector has recommended to keep the petitioner at the place where from he is transferred i.e. at Primary health Centre, Patna, however, the Grievance Redressal Committee while deciding the case of the petitioner on 01.10.2019 has dismissed the representation of the petitioner on the ground that the opinion of the Collector which was sought for is still awaited, therefore, the decision of Grievance Redressal Committee is bad in law.
3. Perused the earlier order of the Court which shows in the earlier occasion

the Court only on medical ground for limited period has granted temporary protection to the petitioner with liberty to file a representation. Further the perusal of recommendation of the Collector (Annexure P-4) dated 07.10.2019 would show that since representation has not been filed before the Grievance Redressal Committee, therefore, till the order of the Grievance Redressal Committee is passed the transfer of the petitioner may not be given effect to. Thereafter, the final order of Grievance Redressal Committee on 01.10.2019 is on record. Perusal of decision of Grievance Redressal Committee on 01.10.2019 would show that the transfer has been made on the administrative ground and specific averments have been made that there has been no breach of transfer policy and nothing has been placed before this Court to show that there is breach of transfer policy. Further, transfer being incident of service, unless and until it is mala fide 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.

4. Accordingly, the petition stands dismissed.

Sd/-

Goutam Bhaduri
Judge

Jyoti