

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 279 of 2020

Smt. Nirmala Devi Chandra W/o Shri Dilip Kumar Chandra Aged About 30 Years Presently Posted As Staff Nurse At Community Health Centre Jaijaipur, District Janjgir Champa Chhattisgarh R/o Ward No. 02 Nagar Panchayat Jaijaipur, District Janjgir Champa Chhattisgarh.
--- Petitioner

Versus

1. State of Chhattisgarh Through Its Secretary, Health And Family Welfare Department, Mahanadi Bhawan, Mantralaya, Atal Nagar Nawa Raipur District Raipur Chhattisgarh, District : Raipur, Chhattisgarh
2. Committee of Senior Secretaries Department of General Administration Ministry Atal Nagar Nawa Raipur District Raipur Chhattisgarh.
3. Collector Janjgir Champa District Janjgir Champa Chhattisgarh.
4. Chief Medical and Health Officer Janjgir Champa District Janjgir Champa Chhattisgarh.
--- Respondents

For the Petitioner	: Mr. Ishan Sharma, Advocate
For the State	: Ms. Richa Shukla, Dy. Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

29-01-2020

1. The petitioner, who is working as Staff Nurse in Community Health Center, Jaijaipur, has been transferred to Community Health Center, Dabhra by order dated 12.07.2019 (*Annexure P-3*). On the same day i.e., 12.07.2019 the transfer of the petitioner was cancelled by Annexure P-8.
2. It is contended that since the petitioner was not immediately communicated of the order of cancellation (*Annexure P-8*), as such, she made an application to the Collector as also to the Grievance Reddressal Committee. The grievance redressal committee, however, without taking into note of cancellation has affirmed the earlier transfer order, which already stood cancelled. It is contended that thereafter, the Chief Medical & Health Officer

Janjgir Champa by order dated 23.11.2019 (Annexure P-2) has passed an order to the effect that the petitioner should join the place of transfer at Dabra. Earlier, the State was directed to seek instructions. It is not disputed that Annexure P-8 was passed on the same date i.e., 12.07.2019. A perusal of Annexure P-8 would show that the transfer of the petitioner, which was made from Primary Health Center, Jaijaipur to Community Health Center, Dabra, was already cancelled. If the petitioner was not in know of the fact then in absence of it, the petitioner cannot be penalized for the reason as it is the employer State who cancelled the transfer order, therefore, this fact that the transfer order having been cancelled and since the petitioner was unknown of the fact has made an application will not give any advantage to the State or will work as estoppel against the petitioner.

3. In the result, if the order which was not existing there was no requirement of any further deliberation either by the Grievance Reddressal Committee or any other authority. Annexure P-8 which purports cancellation of transfer of the petitioner will hold the field and the petitioner cannot be asked to pursue a transfer order, which is not existing. Consequently the order of rejection dt. 01.10.2019 (Annexure P-1) is a nullity as it was passed on wrong facts. Likewise, the order Annexure P-2 issued by the Chief Medical and Health Officer whereby the petitioner has been forced to join at the place of transfer cannot be acted upon in view of the fact that the transfer order has been cancelled way back on 12.07.2019. Consequently, the order Annexure P-2 being devoid of any facts is also quashed.
4. With the above observations, this writ petition stands disposed off.

Sd/-

**GOUTAM BHADURI
JUDGE**