

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 544 of 2020

Rajesh Kumar Dhiwar S/o Late Ganesh Ram Aged About 44 Years Occupation Service, Ayurved Pharmasist Govt. Ayurvedic College / Hospital, Nutan Chowk, Bilaspur, District Bilaspur Chhattisgarh. **--- Petitioner**

Versus

1. State of Chhattisgarh through Secretary Department of Health and Family Welfare, Mahanadi Bhawan, Mantralaya, Atal Nagar, New Raipur, District Raipur Chhattisgarh.
2. Additional Secretary Chhattisgarh Govt. Health Family Welfare Department, Mantralaya, Mahanadi Bhawan, Atal Nagar, New Raipur, District Raipur Chhattisgarh.
3. Director Ayurvedic Yog And Natural Treatment Siddh Homyopathic (Aayush) Chhattisgarh, D.K.S. Bhawan Campus Raipur, District Raipur Chhattisgarh.
4. Superintendent / Principal Ayurved Pharmasist Govt. Ayurvedic College / Hospital, Nutan Chowk, Bilaspur, District Bilaspur Chhattisgarh. - **Respondents**

For the Petitioner	: Manoj Jaiswal, Advocate
For the Respondent	: Avinash Singh, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

23.01.2020

1. This is second round of litigation. The petitioner was transferred from Bilaspur to Korba vide order dated 22.08.2019 which was subject of challenge in W.P(S). 7492 of 2019 wherein this Court on 27.09.2019 has passed the following order :

“1. The challenge in the present writ petition is to the order Annexure P-1 dated 22.08.2019 whereby the petitioner has been transferred from Bilaspur to Korba.

2. The contention of the counsel for the petitioner is that the petitioner substantively was appointed under the Ayurved Department of the State Govt vide order dated 28.02.2009 and now vide the impugned order, the Petitioner is being transferred from Ayurvedic College/Hospital, Nutan Chowk Bilaspur to the primary health Centre Katori Nagoi, District Korba. According to the petitioner, he has no experience and know-how to work in an Allopathic dispensary and therefore the order of transfer of the petitioner to the Allopathic wing is bad in law.

3. Given the aforesaid fact, let the petitioner make a detailed representation to the respondent no.1 within 10 days from the date of receipt of certified copy of this order and the respondent no.1 in turn shall consider the same within a period of 45 days from the date of receipt of certified copy of this order and the respondent no.1 in turn shall consider the same within a period of 45 days from the date of receipt of the representation. While deciding the representation, respondent no.1 is directed to scrutinize the fact whether the petitioner who is a pharmacist in Ayurved Department can be posted in an Allopathic Primary Health Centre. It shall also be verified whether at the said Primary Health Centre, there is some Ayurvedic wing or not.

4. Till the representation of the petitioner is decided, the effect and operation of the impugned order so far as the petitioner is concerned shall remain stayed.

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

2. Subsequently, the representation having been filed by the petitioner, the same has been dismissed vide Annexure P-1 which is under challenge in this writ petition.
3. Learned counsel for the petitioner submits that at present one Ayurvedic doctor has been appointed at Korba. He further submits that the petitioner is Speaker in the District Level Chhattisgarh Ayush Karmachari Vikas Sangh, Bilaspur (Annexure P-4), therefore, as per the State Policy, he cannot be transferred and dismissal of representation cannot be allowed to sustain.
4. Per contra, learned State Counsel opposes the argument and would submit that the petitioner is posted in Bilaspur for more than 5 years and at present one doctor has been appointed at Korba, therefore, the first ground of the petitioner as was raised in the earlier round of litigation is not available.
5. Perused the documents as also the impugned order rejecting the representation of the petitioner. Considering the earlier order of this Court passed in WP(S) No. 7492 of 2019, when the representation filed by the petitioner was decided, it has been stated by the authority in the impugned order (Annexure P-1) that

the transfer has been made on administrative ground and at the transferred place i.e., Primary Health Center Katori Nagoi Korba, at present, the treatment is being done by Ayurvedic system and not by allopathy as the Ayurvedic Doctor is posted in the said place and the petitioner being Ayurved Pharmacist is to render service in Ayurved system. Therefore, the issue raised by the petitioner is accordingly answered.

6. Further the ground as has been raised that the petitioner is that he is Speaker of Chhattisgarh Ayush Karmachari Singh, therefore, he cannot be transferred. No document has been placed to show that under which policy the petitioner cannot be transferred. The petitioner is posted at Bilaspur for more than 5 years as has been stated.
7. It is settled legal position that transfer of a Government Servant appointed to a particular cadre of transferable post from one place to the another is an incident of service, which cannot lightly be interfered with by Courts unless it is shown to be clearly arbitrary or visited by mala-fide or infraction of any prescribed norms of principles governing the policy of transfer. No Government servant or employee of Public undertaking has legal right for being posted at any particular place.
8. With the above observation, the writ petition accordingly stands dismissed.

Sd/-
(GOUTAM BHADURI)
JUDGE