

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 948 of 2020**

- Smt. Durgesh Nandini Bharti W/o Shri Prakash Bharti, Aged About 49 Years Supervisor, Integrated Women And Child Development Department, Posted In Project - Bemetra, Block - Bemetra, District - Bemetra, Civil And Revenue District - Bemetra Chhattisgarh

---- Petitioner**Versus**

1. State of Chhattisgarh Through Secretary, Women And Child Development Department, Mahanadi Bhavan, Mantralay, New Raipur Chhattisgarh
2. The Director / Commissioner, Women And Child Development Department, Indrawati Bhavan, 4th Floor, New Raipur Chhattisgarh
3. The District Program Officer, Integrated Women And Child Development Department, Bemetra, District Bemetra Chhattisgarh
4. The Project Officer, Project Bemetra, District - Bemetra Chhattisgarh

---- Respondents

For Petitioner : Shri M.K. Sinha, Advocate

For Respondents/State : Ms. Richa Shukla, Dy. GA

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****13/02/2020**

1. Heard.
2. This is the second round of litigation. Earlier the petitioner by order dated 08.11.2019 was transferred from Integrated Women and Child Development Project, Bemetara, District Bemetara to Integrated Women and Child Development, Project, Mohala, District Rajnandgaon and the said transfer was subject of challenge in WPS No.9315 of 2019, wherein this Court on 14.11.2019 has passed the following order:-

- “1. The grievance of the petitioner is that the petitioner is working as a Supervisor and she is transferred by an order dated 08.11.2019 from Integrated Women and Child Development, Project – Bemetara, District – Bemetara to Integrated Women and Child Development, Project – Mohala, District – Rajnandgaon.
 2. It is contended that the husband of the petitioner is working in Bemetara as Rural Health Organizer and according to the policy of the State Government the husband and wife be nearly posted at a nearby place. The petitioner should have been accommodated as far as possible nearby the place where petitioner's husband is working. Referred to the judgment in WPS No.6676/2019 passed by co-ordinate Bench on 30.08.2019.
 3. Given the aforesaid facts and circumstances of the case, let the petitioner make a detailed representation to the respondents within a period of 10 days from the date of receipt of certified copy of this order and the respondents in turn shall consider the same within a further period of 45 days from the date of receipt of the representation.
 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. The writ petition accordingly stands disposed of.”
3. Learned counsel for the petitioner would submit that thereafter the petitioner has made representation, however, the representation has been rejected despite the fact that this Court has observed that the case of the petitioner should be considered sympathetically and it is submitted that the petitioner may be posted at a nearby place from place of transfer and not at Rajnandgaon as the transferred place is 150 km away.
 4. Per contra, learned State counsel opposes the same and would submit that it is not so that merely because the husband of the petitioner is in the government job the petitioner cannot be transferred and the transfer policy cannot be applied universally in case of husband & wife and the transfer is made under exigencies of service.
 5. Perused the rejection order dated 04.02.2020, wherein the State also while

deciding the representation has reiterated the fact that the husband and wife cannot be placed on the same place on the ground that the husband of the petitioner is in the government job and it does not confer any right to be not transferred and the representation has been rejected.

6. The State having considered the fact that the transfer of the petitioner would be necessary in the exigency of the work, this Court cannot step into shoes of the State so as to direct to place a particular person at a particular place. It is the prerogative of the State. Therefore, unless and until the transfer is tainted with malafide or illegality it being the incident of service, the same cannot be interfered.

7. Accordingly, the petition is dismissed.

Sd/-

Goutam Bhaduri
Judge

Ashu