

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 1064 of 2020**

- Smt. Durgesh Agrawal S/o Shri Amit Agrawal Aged About 36 Years R/o Block Colony Bamhanindih, District Janjgir Champa Chhattisgarh, Posted As Radiographer At C.H.C. Bamhanindih, District Janjgir Champa Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, Department Of Health And Family Welfare, Mantralaya, Mahanadi Bhawan, Nawa Raipur, Atal Nagar Raipur, District Raipur Chhattisgarh
2. Chief Medical And Health Officer District Janjgir Champa Chhattisgarh

---- Respondents

For Petitioner : Shri Pawan Kesharwani, Advocate

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

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****19/02/2020**

1. Heard.
2. The grievance of the petitioner is that the petitioner was initially transferred by order dated 19.08.2019 from Community Health Centre, Bamhanidih, District Janjgir-Champa to District Hospital, Jashpur. In such transfer order the name & designation of the petitioner was wrongly mentioned which stood corrected by the amended order dated 27.08.2019.
3. Learned counsel for the petitioner would submit that the petitioner is a radiographer which is a district cadre post and the petitioner since has been

transferred from Bamhanidih, District Janjgir-Champat to Jashpur, it would adversely affect her seniority. He would further submit that the petitioner belongs to radiographer cadre and in case of radiographers specific clause is mentioned that if by transfer the seniority is affected, then the person who is transferred may opt not to be relieved. He refers to the document Annexure P-2 dated 23.08.2019, however, since petitioner's name was wrongly mentioned in the earlier order, the petitioner is being pressed hard to be relieved. He would further submit that the petitioner has made representation before the CMHO, Janjgir-Champa that in case the petitioner is transferred her seniority would be affected, therefore, she do not opt to be relieved. He would further submit that despite that the relieving order has been sent on the WhattsApp message and no communication has been made.

4. Perused the documents. Annexure P-2 which is the transfer order of the radiographers contains a clause that in case the seniority of the concerned person is affected then he/she may opt to not follow the same and if it is accepted, it would be deemed that the person has not opted for transfer, which may disturb the seniority. Letter dated 27th of August, 2019 would show that the petitioner's name was amended and corrected which was existing in the original transfer order and her designation was corrected to be that of radiographer. The documents would show that Annexure P-3 is the communication which was made with respect to the representation of the petitioner that in case the petitioner is transferred and relieved, it would affect her seniority, therefore, the petitioner cannot be forced to leave the place of seniority.
5. If it is the case of the petitioner that she belongs to Class-III cadre, which is a district cadre post and her seniority would be affected with transfer from

Bamhanidih, District Janjgir-Champa to Jashpur, then in such case the said submission cannot be sidelined. Annexure P-2 which is an order of transfer of the different radiographers contains a clause that in case the radiographer whose seniority is affected with transfer to other place, he may opt not to be relieved. The petitioner is a radiographer, consequently, she cannot be discriminated or singled out. In a result, the petitioner is given liberty to make afresh representation in this regard before the respondent No.1 Secretary, Department of Health and Family Welfare within a period of three weeks from today on such representation being filed the said respondent in turn shall consider and decide the same within a further period of 45 days from the date of receipt of the representation and the authority may examine the fact as to whether the transfer of the petitioner from Bamhanidih, District Janjgir-Champa to Jashpur would affect her seniority and if it is so then as per clause 5 of the transfer of the other radiographer she should also be given the same benefit. Till the representation of the petitioner is decided, the petitioner shall not be forced to join her place of transfer.

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

Sd/-

Goutam Bhaduri
Judge

Ashu