

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 2637 of 2020**

- Dr. Sandeep Kumar Ram S/o Dilip Kumar Ram Aged About 40 Years Working As Homeopathic Medical Officer, Government Homeopathic Hospital, Harijan Basti, Raipur, Tahsil And District- Raipur, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Health And Family Welfare Department, Mahanadi Bhawan, Mantralaya, New Raipur, District- Raipur, Chhattisgarh.
2. The Under Secretary Government Of Chhattisgarh, Health and Family Welfare Department, Mahanadi Bhawan, Mantralaya, New Raipur, District- Raipur, Chhattisgarh.
3. The District Ayurveda Officer District- Raipur, Chhattisgarh.
4. Dr. Divya Chandrawanshi Posted As Homeopathic Medical Officer, Community Health Center, Lailunga, District- Raigarh, Chhattisgarh

---- Respondents

For Petitioner	:	Shri Ratnesh Kumar Agrawal, Advocate.
For State/ Respondents	:	Shri Chandresh Shrivastava, Dy. A.G.

Hon'ble Shri Justice Goutam Bhaduri**Order****13/07/2020**

Heard.

1. The challenge in this petition is to the order dated 06.05.2020 (Annexure P-1) whereby the representation of the petitioner against the transfer was rejected.
2. The short background of this case is that the petitioner was transferred from Government Homeopathic Dispensary, Harijan Basti, Raipur to Primary Health Centre Rampur, District Korba which was subject of challenge in WPS No. 7672 of 2019 (Annexure P-5). Wherein this court

by order dated 17.09.2019 has stayed the transfer order subject to filing of the representation and 45 days was granted to decide the representation.

3. Learned counsel for the petitioner would submit that the entire transfer has been effected to accommodate Respondent No. 4 (Dr. Divya Chandrawanshi) who has been transferred on her own accord whereas the petitioner has been transferred on administrative ground and the transfer of the petitioner is malafide and this part of the malafide has not been answered in the decision to the representation, therefore, the order of transfer of the petitioner is bad in law.
4. Learned State counsel opposes the argument.
5. On the earlier occasion, when the transfer was challenged by the petitioner this Court has passed the following orders :-

1. The challenge in the present Writ Petition is to the order Annexure P/1 dated 21.08.2019 whereby the services of the petitioner has been transferred from Government Homeopathic Dispensary Harijan Basti, Raipur to Primary Health Centre , Rampur, Korba.

2. The contention of the petitioner is that the petitioner is the District Vice President of Chhattisgarh Ayurved Officers Sangh and thereby the petitioner falls within the protected category under the transfer policy of the State Government.

3. Given the said facts, let the petitioner make a detailed representation to the respondents within a period of 10 days from today and the respondents in turn shall decide the representation within a further period of 45 days from the date of receipt of representation . Meanwhile, there shall be a stay of the effect and operation of the impugned order, so far as the petitioner is concerned.

4. The authorities concerned are also directed to verify the fact whether the petitioner does fall under the protected category under the transfer policy of the State Government or not.
6. The reading of the aforesaid order would show that the primary ground which was raised by the petitioner was that he falls under the protected category and he holds the post in the Union. While the representation was decided this issue has been considered and it reads that C.G. Ayurved Officers Sangh is not a recognized union of which petitioner claims to be post holder as such the petitioner shall not get the protection. Furthermore, during the course of submission when specific query was raised i.e. since how long the petitioner is working at Raipur, it is contended that since 2017 the petitioner is working at Raipur. Considering the fact that till today the petitioner has already completed 3 years at Raipur even otherwise it is the prerogative of the State to place a particular employee at a particular place.
7. It is well settled law that the 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. In view of the above settled legal position, I am not inclined to interfere with the impugned transfer order. Accordingly, this petition is dismissed.

Sd/-
(Goutam Bhaduri)
Judge