

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 3 of 2020**

- Kamal Narayan Soni S/o Late Mr. Hari Ram Soni Aged About 51 Years Posted Rural Health Organizer (Male), Posted At Sub Health Center Malgaon, Block Kanker District - Uttar Baster Kanker Chhattisgarh

---- Petitioner**Versus**

1. State of Chhattisgarh Through Secretary, Department Of Health And Family Welfare, Mahanadi Bhavan, Mantralaya, New Raipur, District - Raipur Chhattisgarh
2. The Collector, District Uttar Baster Kanker Chhattisgarh
3. Chief Medical And Health Officer, District - Uttar Baster Kanker Chhattisgarh
4. Block Medical Officer, Primary Health Center Dhanelikanhar, District - U.B. Kanker Chhattisgarh
5. Committee Of Senior Secretaries, Through Its President / Chairman Naya Raipur, District Raipur Chhattisgarh

---- Respondents

For Petitioner : Shri Parag Kotecha, Advocate

For Respondents/State : Shri Alok Bakshi, Addl. AG

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****07/01/2020**

1. Heard.
2. This is the second round of litigation. Earlier the petitioner was transferred from Sub Health Centre Malgaon, Block Kanker to Sub Health Centre Badrangi, Block Koilibeda and the said transfer was subject of challenge before this Court in WPS No.8424 of 2019, wherein this Court on 17.10.2019 has passed the following order:-

- “1. Grievance of the petitioner is that the petitioner has been transferred from Sub Health Center Malgaon, Block Kanker to Sub Health Center Badrangi, Block Koilibeda. It is submitted that the petitioner holds the office of Secretary of Swasthya Avam Bahu-Uddeshiya Karmachari Sangh Kanker Chhattisgarh; therefore, as per Clause 1.4 of the Policy of the State, the person who holds some post in association, he cannot be transferred.
2. Perused the document Annexure P-2, which shows petitioner is holding some post as office bearer in association namely Swasthya Avam Bahu-Uddeshiya Karmachari Sangh Kanker Chhattisgarh. After perusal of Clause 1.4 of the Policy of the State, it is directed that if the petitioner makes a representation to the Grievance Redressal Committee within a period of 15 days, the same shall be considered and decided by the Committee within an outer limit of 45 days from the date of receipt of the representation. Till then the transfer of the petitioner shall not be given effect to.”
3. Learned counsel for the petitioner would submit that thereafter the representation was made and by order dated 08.11.2019 (Annexure P-4), the Collector has dismissed the representation on the ground that the representation against the grievance of the transfer was to be made before the grievance redressal committee constituted by the State. He would further submit that the order of the Collector would show that the order has been passed at the recommendation of the Minister, therefore, the order cannot be given effect to as it cannot be said to be on administrative grounds.
4. Per contra, learned State counsel opposes the arguments advanced by learned counsel for the petitioner.
5. In the earlier order passed by this Court, this Court has given the liberty to the petitioner to make representation before the grievance redressal committee within a period of 15 days. It appears that the petitioner instead of filing the representation before the grievance redressal committee filed the representation before the Collector, which was decided by order dated

08.11.2019 (Annexure P-4). The perusal of the order passed by the Collector would show that the petitioner is posted at the place at Malgaon from September, 2004 as such almost 15 years have been passed, therefore, in such background of this case since the petitioner himself has impugned the order whereby the representation of the petitioner was made to the Collector and has been decided against him, I do not find any merit in this case as the petitioner himself has chosen to file the representation before the Collector, which is impugned herein. Furthermore, considering the fact that the petitioner is posted at the same place since 2004 and one employee cannot be posted for the time immemorial at a particular place of his choice. Therefore, unless and until the transfer is tainted with malafide or illegality it being the incident of service, the same cannot be interfered.

6. The petition is bereft of merits is liable to be and is hereby dismissed.

Sd/-

Goutam Bhaduri
Judge

Ashu