

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WRIT PETITION (SERVICE) NO. 1326 OF 2021**

- Rajaram Joshi, S/o Fatturam Joshi, aged about 43 years, presently posted as Pharmacist Ayurved at Government Primary Health Centre, Badedongar, District Kondagaon (CG)

... Petitioner**versus**

1. State of Chhattisgarh, through the Secretary, Department of Health and Family Welfare, Mantralaya, Atal Nagar, Raipur, District Raipur (CG)
2. Under Secretary, Department of Health and Family Welfare, Mantralaya, Atal Nagar, Raipur, District Raipur (CG)
3. Deputy Secretary, Department of Health and Family Welfare, Mantralaya, Atal Nagar, Raipur, District Raipur (CG)
4. District Ayurved Medical Officer, District Kondagaon (CG)

... Respondents

For Petitioner	:	Mr. Ishan Verma, Advocate.
For Respondents/State	:	Ms. Hamida Siddiqui, Dy. A.G.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****07/04/2021**

1. Challenge in the present Writ Petition is to the Order dated 29.12.2020 by which the Respondents have rejected the representation which the Petitioner had preferred against the order of transfer dated 15.9.2020.
2. Petitioner is working on the post of Pharmacist (Ayurved) since 2013 and was posted at District Kondagaon. On 15.9.2020, the Government issued an order of transfer whereby the Petitioner has been transferred from District Kondagaon to District Bijapur. Petitioner preferred a Writ Petition viz. WPS No. 4213/2020 against the said order. The said Writ Petition was disposed of on 27.10.2020 directing the Petitioner to prefer a representation to the Authorities and till the representation is decided the Petitioner shall not be relieved from his place of posting at District Kondagaon. Pursuant to the said order, the Petitioner preferred a representation to the Authorities concerned who vide their order dated 29.12.2020 rejected the representation of Petitioner.
3. Perusal of the pleadings and the record itself would show that Petitioner has already put in more than 7-8 years of service at District Kondagaon and thus he has completed his normal tenure of posting and thereafter the impugned order has been passed.

4. Challenge made to the impugned order is only on the ground that the Petitioner has been transferred from one Scheduled Area to another Scheduled Area, whereas the Petitioner already having worked in a Scheduled Area for more than 7-8 years, the Authorities ought to have considered the transfer of Petitioner to a Non-Scheduled Area in terms of the Policy of the State Government itself.

5. It is by now a well settled proposition of law that the Transfer Policy of the State Government or, for that matter, the Employer does not have the force of law. Those are only the instructions in the nature of guidelines. It is also a settled proposition of law that it is purely within the prerogative of the employer to decide when, where and for what duration of time should an officer be posted at a particular place.

6. The High Court in exercise of its powers under Article 226 of the Constitution of India cannot substitute itself as an Administrative Agency or a part in the decision of the State Government in deciding the place of posting of Petitioner. The order of transfer can be interfered with only in the event if the order is firstly issued contrary to the Service Rules governing the field or has been issued by an Authority incompetent for the same. The order of transfer can also be subjected to judicial review if the same is acted with malafides. None of the aforesaid three counts are the grounds of challenge in the present Writ Petition.

7. In view of above, the scope of interference with the impugned order gets minimal and this Court is left with no other option but to dismiss the present Writ Petition which is hereby dismissed.

8. However, the right of Petitioner stands reserved for approaching the Authorities in the event of petitioner seeking for a change in place of posting.

9. With the aforesaid liberty, the Writ Petition stands dismissed.

**Sd/-
(P. Sam Koshy)
JUDGE**