

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 1425 of 2021**

Dr. Arvind Marabi, S/o Shri H. S. Marabi, Aged About 41 Years District Ayurved Officer, R/o House No. 10, Jeevan B Colony, Kaureenbhata, Ward No. 45, Rajnandgaon, District Rajnandgaon Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, Department Of Health And Family Welfare, Mantralaya, Mahanadi Bhawan, Nawa Raipur, District Raipur Chhattisgarh.
2. Under Secretary, Department Of Health And Family Welfare, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur Chhattisgarh
3. Director, Directorate Of Ayurved, Yog Evam Prakratik Chikitsa, Yunani, Siddha And Homeopathy (Ayush), Chhattisgarh, D.K.S. Premises, Raipur, District Raipur Chhattisgarh.

---- Respondents

For Petitioner	:	Mr. Anand Dadariya, Advocate
For State	:	Mr. Vivek Ranjan Tiwari, Addl. A.G. along with Mr. Sudeep Verma, Deputy G.A.

Hon'ble Shri Justice P. Sam Koshy
Order on Board

10/03/2021

1. The challenge in the present writ petition is to the order of transfer dated 09.02.2021, whereby the petitioner has been transferred from Rajnandgaon to District Bijapur on the post of District Ayurved Officer.
2. The challenge is on the ground that the impugned order is hit by malafides as the petitioner has obtained certain information under the Right to Information Act, which suggests that the order of transfer has been made at the behest of certain complaints made by the Ex-District President of the Congress Party. According to the petitioner,

the order of transfer is also bad for the reason that after the petitioner was subjected to transfer, the post has been handed over to a junior officer, which again is not permissible under the transfer policy of the State, where it is ordered that the charge should not be given to the junior officer on transfer of the senior officer. The third ground of the petitioner for assailing the order of transfer is that in the year 2010 the petitioner met with an accident and there were certain grievous injuries that he had suffered and there are screws affixed to both his legs, therefore the petitioner would face great hardship and inconvenience, if he is sent back to the transferred place at Bijapur, which is more than 360 kms away from the present place of posting.

3. On perusal of records, from the pleadings in the writ petition itself it is evidently clear that the petitioner has been working at the present place of posting since 2018 and as such he has put more than two years of service at the present place of posting. Prior to the petitioner coming to the District Rajnandgaon or the present place of posting, the petitioner had worked for a period of around 4 years at District Durg and the counsel for the petitioner submits that before Durg the services that the petitioner rendered was at District Raipur. From the aforesaid facts itself it would be evident that the petitioner has been discharging his duties in an around Raipur, Durg areas for the last many years.
4. As regards the ground of malafides is concerned, though the petitioner has shown certain documents in respect of certain complaints made by the Ex-District Congress President, but the plain

reading of the impugned order does not reflect the same to have been passed on the basis of the complaint, rather it appears that the impugned order has been passed only on the administrative exigency. So far as the other two grounds which the petitioner has raised i.e. the charge being given to a person junior and the petitioner having certain medical ailments, these are the areas, which is left exclusively within the domain of the State Authorities to decide whom and when has to be posted where.

5. The law so far as transfer of the government employee is concerned is by now well settled by a catena of decisions, wherein the Hon'ble Supreme Court as also this High Court has repeatedly held that transfer is an incidence of service and the Courts and the Tribunals should entertain a transfer petition only in the event if the order of transfer being contrary to the service conditions or the same is issued by an incompetent authority, both these grounds are not the grounds of challenge in the instant case, admittedly the service of the petitioner is a transferable service.
6. From the pleadings of the petitioner itself, it appears that for the last about a decade the petitioner has worked in around Raipur, Durg and Rajnandgaon areas. The grievance of the petitioner so far as his wife being in service also is a ground which can be looked into by the authorities concerned as far as possible under the guidelines and the same also is again within the prerogative and domain of the State Authorities. In case if the petitioner is not comfortable with the place of posting at District Bijapur, the only recourse available to the petitioner is to make appropriate representation to the authorities

concerned highlighting the hardship and inconveniences that the petitioner has in complying with the order and on such representation being made, it would be left for the respondents authorities to consider the contents of the representation and to take an appropriate decision in accordance with the Rules and Regulations governing the field.

7. Considering the age of the petitioner and also taking note of the fact that for the last almost 6-7 years the petitioner has been working in an around Raipur, Durg and Rajnandgaon, this Court does not find any strong case made out calling for an interference with the impugned order of transfer. However, liberty is open to the petitioner to make a representation to the respondents No. 1 & 2 seeking for a change/modification/amendment to the order of transfer and on such representation being made, the respondent authorities are expected to take a decision.
8. With the aforesaid observations, the present writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

Ved