

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURWA No. 107 of 2021

(Arising out of order dated 1-3-2021 passed in Writ Petition (S) No. 685 of 2021 by the learned Single Judge)

Amit Kumar Bajpai, S/o Lakhan Lal Bajpai, Aged About 39 Years, Presently posted as Pharmacist Ayurved At Government Ayurved Hospital Adenga, District- Kondagaon (C.G.)

---- Appellant

Versus

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

---- Respondents

For appellant : Mr. Ishan Verma, Advocate

For respondents/State : Mr. Ashish Tiwari, Govt. Adv.

DB: Hon'ble Shri P.R. Ramachandra Menon, Chief Justice & Hon'ble Shri Justice Narendra Kumar Vyas, J.

Judgment on Board

Per Narendra Kumar Vyas, J.

25-03-2021.

1. The appellant has preferred present writ appeal under Section (2)(1) of the Chhattisgarh High Court (Appeal to Division Bench) Act, 2006 read with Rule 158 of the Chhattisgarh High court Rules 2007, being aggrieved with the order dated 1-3-2021 passed by the learned Single Judge in Writ Petition (S)

No. 685 of 2021, whereby the writ petition preferred by the petitioner was dismissed with liberty to the petitioner to file a fresh representation before the State authority for ventilating his grievances for suitable place of posting to a non-scheduled area in accordance with the policy of the State Government.

2. The brief facts, as projected by the appellant/petitioner in the writ petition as well as in the writ appeal, are that he was appointed on the post of Pharmacist Ayurved and was posted at Government Ayurved Hospital, Adenga, District Kondagaon vide order dated 30-3-2012. The appellant has already served more than eight years at Kondagaon which is a scheduled area and again he has been transferred to core scheduled area ie., Government Ayurved Hospital Basaguda, District Bijapur vide order dated 15-9-2020 issued by the respondent No.2 - Under Secretary, Department of Health and Family Welfare, Raipur, District Raipur.
3. The appellant/petitioner has filed writ petition challenging the said transfer order dated 15-9-2020 before this court by filing WP(S) No. 3903 of 2020. The learned Single Judge vide order dated 1-10-2020 has disposed of the writ petition granting liberty to the petitioner to prefer a representation within a period of three weeks from 1-10-2020 against his transfer ventilating all grievances. The respondent No. 2 was directed that if such representation is filed, the respondent No.2 in turn shall decide the said representation within a period of 45 days

from the date of receipt of the representation. Learned Single Judge has also granted interim protection by directing the authorities that the transfer order dated 15-9-2020 shall not be given effect to till said representation is decided by the authority.

4. In pursuance of the direction of this Court, the petitioner has submitted his representation with a request to consider his place of posting. The said representation has been decided by respondent No.1, recording a finding that there is no violation of transfer policy in the transfer order dated 15.09.2020 and rejected the said representation vide its order dated 02.01.2021.
5. Being aggrieved with the order dated 2-1-2021, petitioner has filed Writ Petition No. 685 of 2021 challenging the rejection of the representation as well as his transfer in the scheduled area, despite the fact that he has already worked there for more than eight years. Learned single Judge vide impugned order dated 1-3-2021 (Annexure A/1) has dismissed the writ petition reserving liberty in favour of the petitioner to make representation. The appellant has filed this Writ Appeal assailing the order dated 1-3-2021.
6. The case of the appellant was considered and learned Single Judge observing that no relief, as prayed for, could be granted to the petitioner in view of the fact that petitioner has already

been continuing in the same place of posting for more than eight years and has been virtually shifted to a nearby station, though it again happened to be a core scheduled area. The learned Single Judge has observed at paragraph 12 as under:-

“12. However, the dismissal of the present writ petition would not preclude the petitioner from approaching the State authorities by way of a fresh representation seeking for a suitable place of posting to a non-scheduled area, in accordance with policy of the State Government and which if made, the authorities shall consider and decide the same on its own merits, in accordance with the policy governing the field”.

7. Mr. Ishan Verma, learned counsel for the petitioner submits that the direction given by the learned Single Judge in paragraph 12 might be caused to be finalized within a time frame so that the appellant could minimize the hardship in all respects.
8. It is stated that the appellant would file a representation as directed by the learned single Judge within two weeks. Under such circumstance, the representation of the appellant shall be considered and decided by the competent authority of the 1st respondent as expeditiously as possible, at any rate, within 'one month' from the date of receipt of representation as above.

9. It shall be for the appellant to produce a copy of a judgment along with a copy of writ appeal, memorandum of writ petition and a copy of the judgment passed by learned Single Judge before the 1st respondent for further steps.
10. With the aforesaid observation/direction the writ appeal stands disposed of.

Sd/-

(P.R. Ramachandra Menon)
Chief Justice

Sd/-

(Narendra Kumar Vyas)
Judge

Raju