

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 194 of 2021**

Dr. Katyayni Singh W/o Anil Kumar Chouhan Aged About 43 Years Presently Posed As Medical Officer At Primary Health Centre Ghoghari, District Janjgir Champa , R/o Village Barbhata, Tahsil Malkharoda, District Janjgir Champa Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Its Secretary Health And Family Welfare Department, Mantralaya, Mahanadi, Bhawan, Naya Raipur, District Raipur Chhattisgarh.
2. Under Secretary Health And Family Welfare Department, Mantralaya, Mahanadi, Bhawan, Naya Raipur , District Raipur Chhattisgarh.
3. Chief Medical And Health Officer Janjgir Champa District Janjgir Champa Chhattisgarh.

---- Respondents

For Petitioner	:	Ms. Diksha Gouraha, Advocate
For State	:	Mr. Rahul Jha, Govt. Advocate

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

18/01/2021

1. The challenge in the present writ petition is to an order of transfer dated 02.12.2020, whereby the petitioner has been transferred from the Primary Health Centre, Ghoghari, District Janjgir-Champa to the District Hospital at Janjgir-Champa.
2. The primary contention challenging the order of transfer is the fact that the place where the petitioner is presently posted, there is only one Medical Officer and there is no replacement being made by the impugned order and as such the Primary Health Centre would be left without a Medical Officer. At the same time, it was also contended that the place where the petitioner is being transferred

i.e. the District Hospital, Janjgir-Champa, there are already surplus Medical Officers over and above the sanctioned posts of Medical Officers and the petitioner would add on to the list of the surplus Medical Officers at District Hospital, Janjgir-Champa.

3. The counsel for the petitioner referring to the transfer policy submits that in the transfer policy there is a Clause, which clearly says that under no circumstances should employees/officers from a deficit area be sent to surplus area and thus the order of transfer is directly in violation to the transfer policy of the State Authorities.
4. On a query being put to the counsel for the petitioner it was contended that the petitioner is working at the present place of posting right from the time of her initial appointment, which is quite considerable period of time. Thus it does not appear that the order of transfer has been made before the normal completion of tenure of an employee/officer.
5. As regards the transfer policy of the government is concerned, it has been time and again decided by the Hon'ble Supreme Court as also by this Court that transfer policy do not have any force of law. Moreover, it is not a case where the services of the petitioner is not transferable or the authorities, who has issued the order of transfer was incompetent or there was any specific rule against the petitioner being transferred.
6. As regards, the fact that the present place of posting of the petitioner would be left without a Medical Officer, this Court would like to direct the respondents to ensure that the place of posting of the petitioner at present i.e. the Primary Health Centre, Ghoghari is

not left without a Medical Officer. They should ensure by taking suitable measures to post a Medical Officer at the said Primary Health Centre. As regards the District Hospital having surplus Medical Officers this aspect would also be looked into by the respondents and ensure that the places where there are no or deficit medical officers appropriate postings are done particularly ensuring that all PHCs and CHCs have a Medical Officer or atleast is not left without any Medical Officer.

7. As regards the petitioner is concerned, since it is not a case where the order of transfer has been made within a short span of time, nor is it made contrary to the service Rules in any manner. Moreover, the petitioner is not in any manner being adversely affected by the issuance of the order of transfer except for the shifting from one place to another and also taking into consideration the distance between the two places of posting, this Court does not find any strong case made out calling for an interference with the order of transfer.
8. The writ petition to the aforesaid extent being devoid of merit so far as challenge to the transfer order is concerned. However as regards the directions given by this Court to the respondents the authorities are expected to ensure appropriate steps being taken so far as the observations are concerned at the earliest preferably within a period of 90 days from the date of receipt of the copy of this order. The copy of this order be also sent to the respondent No.1 through the Registry of this Court.

9. The reluctance of this Court in entertaining the writ petition so far as the petitioner is concerned would not preclude the petitioner from approaching the respondents by way of suitable representation request for cancellation or change so far as the place of posting of the petitioner in the impugned order of transfer is concerned.
10. With the aforesaid observations, the present writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

Ved