

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 5762 of 2014

- Smt. Manju Shukla W/o Shri Sunila Kumar Shukla, Aged About 47 years, Occupation Government Service, Presently Posted as Principal Government High School, Matra, Block Dhamdha, Distt. Durg. R/o 9-B/22, Sector 10, Bhilai Distt. Durg. Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh, Through The Secretary, Department of School Education, Mahanadi Bhawan, Mantralaya, Naya Raipur, Chhattisgarh
2. Commissioner, Directorate Of Public Instructions, Vivekanand Nagar Raipur, Police Station Civil Lines, Post Office Byron Bazaar, Chhattisgarh
3. District Education Officer, Durg., Chhattisgarh
4. Smt. Rupa Gupta Through The District Education Officer, Durg, Chhattisgarh

---- Respondents

For Petitioner	: Dr. N.K. Shukla, Sr. Advocate with Shri S.S. Tiwari, Advocate
For Respondent/State	: Shri Mazid Ali, Panel Lawyer
For Respondent No.4	: Shri Ajay Shrivastava, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

25/06/2015

1. Petitioner is aggrieved by the order passed by the State Government on 24/03/2014, deciding the representation filed by the petitioner, as well as respondent No. 4, pursuant to the common order passed by this Court on 18/02/2014 in W.P.(S) No. 4262/2013 '*Smt. Manju Shukla Vs. State of Chhattisgarh & others*' and W.P.(S) No. 716/2014 '*Roopa Gupta Vs. State of Chhattisgarh & others*'. By the impugned order the State Government has allowed the respondent No. 4 to continue as Principal of Higher Secondary School, Borsi, District Durg and the petitioner has been posted as Principal of Government High School, Matra, Block Dhamdha, District Durg.

2. The facts of the case, briefly stated, are that by an order dated 13/07/2012 the respondent No. 4 was transferred from the Office of District Education Officer, Durg to Govt. Higher Secondary School, Kodia, District Durg pursuant to which the respondent No. 4 was relieved on 08/08/2012 and she joined at Kodia. By the same order one Anil Gupta was transferred from Govt. Higher Secondary School, Kodia to Govt. High School, Matra. The said Anil Gupta preferred W.P.(S) No. 2791/2012 before this Court, wherein a direction was issued in his favour directing the State Government to decide his representation. The State Government allowed the representation preferred by Anil Gupta on 22/03/2013 and transfer order dated 13/07/2012 was cancelled in his favour. Thus, the said Anil Gupta was allowed to continue at Kodia. Since the respondent No. 4 has already joined at Kodia, the said respondent was sent back to the office of D.E.O., Durg. This necessitated passing of an order by D.E.O., Durg on 03/04/2013 directing that the respondent No. 4 shall be posted as Principal, Government Higher Secondary School, Borsi w.e.f. 30/09/2013 when the then Principal working in school would superannuate.

3. By order dated 27/09/2013 the petitioner was transferred from Govt. Girls Higher Secondary School, Gurur, District Balod to Govt. Higher Secondary School, Borsi, District Durg. Since at that time an order was already passed by D.E.O., Durg directing posting of the respondent No. 4 at Borsi, there was no vacancy for the petitioner at Borsi and at the same time the order dated 27/09/2013 also created difficulty for respondent No. 4 to remain at Borsi because her posting was made by the District Education Officer, Durg which was conflicting with the order passed by the State Government on 27/09/2013. This situation compelled both the petitioners to prefer separate writ petitions i.e. W.P.(S) No. 4262/2013 and 716/2014. In the said petitions this Court passed an order on 18/02/2014 directing the State Government to remove the anomaly and decide the issue pertaining to the posting of the petitioner and respondent No. 4 at Borsi.

4. The above obtaining facts would reveal that the respondent No. 4 was initially transferred to Kodia and she was willing to continue at the place and had in fact submitted her joining, however, due to the order passed by this Court in W.P.(S) No. 2791/2012 preferred by Anil Gupta the State Government considered his representation and the transfer order against Anil Gupta was eventually cancelled. Even though, there was no express order by the State Government posting the respondent No. 4 at Borsi yet

because of the peculiar situation, the respondent No. 4 was transferred at the option of D.E.O., Durg, which was exercised by the said D.E.O. because of the order passed by this Court in writ petition of Anil Gupta, which compelled the State Government to cancel his transfer.

5. In the entire facts situation of the case, the impugned order passed by the State Government allowing the respondent No. 4 to continue at Government Higher Secondary School, Borsi does not appear to be arbitrary and illegal. The State Government has passed an administrative order after considering the issue at length which does not appear to be without any reason.

6. At this stage, Dr. Shukla, learned senior counsel appearing for the petitioner, would submit that since the petitioner was also willing to serve at Borsi and the petitioner is facing personal difficulties in attending the duties at Matra, the respondent-authorities may be directed to consider petitioner's request for her posting at Durg or at any school within the Durg Block, sympathetically.

7. In the facts of the case, the prayer made by Dr. Shukla, learned senior counsel does not deserve outright rejection, therefore, it is directed that if the petitioner makes such prayer before the D.E.O., Durg or the higher authority, the same may be considered sympathetically.

8. The writ petition stands disposed of in the above terms.

Sd/-
JUDGE

(Prashant Kumar Mishra)