

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 2807 of 2015

1. J. N. Lahidi S/o Late Shri J.N. Lahidi, Aged About 61 years Presently Posted As Assistant Accounts Officer, Zila Panchayat, Ambikapur, District Surguja, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Finance Department, Mantralaya, Mahanadi Bhawan, Naya Raipur, Chhattisgarh
2. Director, Accounts, Treasury And Pension, 1st Floor, Indravati Bhawan, Naya Raipur, District Raipur, Chhattisgarh
3. Zila Panchayat Surguja, Through The Chief Executive Officer, Zila Panchayat, Ambikapur, District Surguja, Chhattisgarh
4. High Powered Transfer Committee, Through It Convener, General Administration Department, Mahanadi Bhawan, Naya Raipur, District Raipur, Chhattisgarh
5. Joint Secretary, Finance Department, Mantralaya, Mahanadi Bhawan, Naya Raipur, Chhattisgarh

---- Respondent

For Petitioner	Shri Amrito Das, Advocate
For Respondent/State	Shri P.K. Bhaduri, Govt. Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

05/08/2015

Heard learned counsel for the parties.

1. Petitioner would assail the order dated 22-7-2015 whereby his representation against the transfer order dated 17-6-2014 has been rejected. He has also assailed the said transfer order dated 17-6-2014 whereby he was transferred as Assistant Accounts Officer, Zila Panchayat, Ambikapur to the office of Sub Treasury Office, Pathalgaon, District Jashpur.
2. Shri Das, learned counsel appearing for the petitioner, would submit that the petitioner would attain the age of superannuation in the month of February, 2016, therefore, since only about 6 months period is remaining in his superannuation the impugned order would operate harshly against the petitioner.
3. Shri Bhaduri, learned Govt. Advocate appearing for the State, would draw attention of the Court to the previous order passed in WPS No.2871 of 2014 to argue that this Court has already considered the fact that there is no malice or infringement of statutory provisions while issuing the transfer order, therefore, there is no scope for judicial review in the matter.
4. True it is that in the earlier round of litigation this Court has not interfered with the transfer order and the petitioner was relegated to prefer a representation in terms of para 6 of the transfer policy, however, in the said order it is not mentioned, probably it was not urged before this court, that the petitioner would be attaining the age of superannuation in the month of February, 2016.

5. Be that as it may, the fact remains that since after issuance of transfer order the petitioner was allowed to continue at the present place of posting for some reason or the other. Even if under the extant policy the Government servant is ordinarily not transferred when only one year is remaining in his superannuation and that ground was not available for the petitioner on 17-6-2014 when the transfer order was issued yet by efflux of time and by allowing him to remain at the present place of posting now a situation has arisen wherein compelling the petitioner to join at the transferred place would amount to transferring him to a different place, which is not his native place, when he is left with less than one year to attain the age of superannuation.
6. For the foregoing, since no useful purpose would be served in keeping the writ petition pending, this Court deems it appropriate to quash the order 22-7-2015 (Annexure – P/1) and the transfer order dated 17-6-2014. It is ordered accordingly.
7. As an upshot, the writ petition is allowed. No order as to costs.

Sd/-

Judge

Prashant Kumar Mishra

Gowri