

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(S) No. 5349 of 2014

Nandlal Jharbade S/O Late Shri Somaji
Jharbade Aged About 45 years Post
Principal Tribal Welfare Department
Presently Posted At Govt. Higher
Secondary School Dantewada R/O Govt.
Modern Higher Secondary School
Campus Qr No. G -1, Dantewada C.G.

---- Petitioner

Versus

1. State Of Chhattisgarh & Ors. S/o Through
The Secretary, Department Of Tribal
Welfare, Mantralaya Mahanadi Bhawan,
New Raipur Distt. Raipur C.G.
2. Commissioner, Tribal & Scheduled Caste
Welfare Department Raipur Distt. Raipur
C.G.
3. The Collector Dantewada, Distt.
Dantewada C.G.
4. The Assistant Commissioner Tribal
Welfare Department Dantewada C.G.
5. Mr. L.B. Yadav Lecturer Govt. Higher
Secondary School Dantewada R/O
Avarabhata Dantewada Distt. Dantewada
C.G.

---- Respondents

For Petitioner:	Shri Alok Kumar Dewangan, Advocate.
For Respondents/State:	Shri Vaibhav A. Goverdhan, PL

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

10/03/2015

Counsel for the petitioner submits that the petitioner had basically preferred a writ petition by challenging Annexure P-1 which was an order of attachment attaching the petitioner's services to the office of Assistant Commissioner, Tribal Welfare Department dated 22.09.2014.

2. According to the petitioner, he was substantively holding the post of Lecturer and vide order dated 8.8.13, the petitioner was found eligible for promotion and was promoted to the post of Principal. Thereafter, the petitioner was ordered to be posted at Government Boys Higher

Secondary School, Dantewara. According to the petitioner, when he had gone to join at the promoted place at Dantewara, LB. Yadav, respondent No.5 who was discharging his duties as Incharge, Principal was reluctant to grant charge to the petitioner. Ultimately on 7.11.2013, charge was granted to the petitioner and he was, without any complaints, discharging his duties till Annexure P-1 was issued on 22.9.2014 whereby the services of the petitioner was attached to the office of Assistant Commissioner, Tribal Welfare Department.

3. He submits that the order of attachment is firstly, contrary to the Government instructions and secondly, it has been passed in order to accommodate the private respondent i.e. respondent No.5 who has been made the Incharge, Principal again after the order of attachment was issued to the petitioner and has therefore, sought for the quashment of the same. He further submits that now vide Annexure P-8 dated 13.2.15 in less than 5 months from the date of order of attachment, the petitioner has again been transferred to a new place i.e. to the Government Higher Secondary School Podum, Distt. Dantewara as a Principal. He further submits that the said impugned Annexure P-8 also is bad in law for the reason that it has also been passed without the order of attachment being canceled which has been issued only with a malafide intention of accommodating respondent No.5 and the petitioner prays for quashment of Annexure P-8 also. He further submits that the two orders under challenge i.e. the order of attachment Annexure P-1 and the order of transfer Annexure P-8 are bad in law also on the ground that the petitioner is a Scheduled Caste category employee and as per the circular dated 12.6.08, the persons belonging to the weaker sections should not be subjected to frequent transfers.

4. State counsel however opposes the petition on the ground that now that the grievance of the petitioner stood redressed on account of the fact that he has been granted a fresh place of posting whereby he was posted as a Principal of the Government Higher Secondary School at Podum, Distt Dantewara and therefore, the earlier grievance of the petitioner pertaining to attachments stands redressed and prays for the disposal of the writ petition.

5. Having considered the rival contentions and on perusal of the record, it is evident that the petitioner was initially granted promotion and the place of posting at the Government Boys Higher Secondary School

vide Annexure P-3 dated 8.8.13. By virtue of the said order of promotion, the petitioner had been granted joining at the place of posting i.e. the Government Boys Higher Secondary School on 7.11.13 on which post the petitioner continued to discharge his duties as Principal till Annexure P-1 was passed on 22.9.14. Subsequently, the petitioner, on administrative exigencies, had to be attached and was attached to the office of Assistant Commissioner, Tribal Welfare Department vide order Annexure P-1 dated 22.9.2014 and where the petitioner continued to perform his duties till 13.2.2015 i.e. till Annexure P-8 was passed transferring the petitioner again to the Government Higher Secondary School at Podum, Dantewara.

6. The contentions of counsel for the petitioner cannot be accepted for the reason that when we peruse Annexure P-8 dated 13.2.2015, it would show that the grievance of the petitioner was that he on being promoted to the post of Principal, instead of being given the post of Principal, was attached to the office of Assistant Commissioner illegally so as to accommodate the private respondent i.e. respondent No.5. Now that the petitioner has been exclusively posted vide Annexure P-8 dated 13.2.15 to the Government Higher Secondary School, Podum, Distt. Dantewara itself, the grievance of the petitioner against the order of attachment stands redressed.

7. At this juncture, it is also trite to mention that the petitioner cannot agitate on the prerogative of the State Government in issuing the order of transfer in respect of the employees and officers working under the State Government. The said prerogative always rests with the State Government and if in the given facts and circumstances of the case, the Government has passed an order Annexure P-8 dated 13.2.15 and has posted as a Principal, it has to be presumed that the respondents have, on the administrative side, taken a decision which would also set all the grievance and dispute raised by the petitioner at rest.

8. In view of above and in the given facts and circumstances of the case, this Court is of the opinion that no substantial ground further remains to be adjudicated upon after issuance of Annexure P-8 and therefore, the instant petition stands dismissed. No order as to costs.

J U D G E