

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 3443 of 2015**

- Dulechand Jangde S/o Late Charan Jangde, Aged About 61 Years Superintendent Of Pree- Metric Schedule Cast Boys Hostel, Kharora, Block Tilda, District Raipur, (Chhattisgarh)

---- Petitioner**Versus**

1. State of Chhattisgarh Through Secretary, Department Of S. T. & S. C., O. B. C., Minority Welfare, Ministry, Mahanadi Bhawan, New Raipur, (Chhattisgarh)
2. Assistant Commissioner, Tribal Development, Office Of Collector (Tribal Development) District Raipur, (Chhattisgarh)
3. Pushpesh Chandr Gosawami, Superintendent, Class- "D" Of Pree- Metric Schedule Cast Boys Hostel, Bhandarpuri, Block Aarang, District Raipur, (Chhattisgarh)

---- Respondents

For Petitioner	:	Shri Neeraj Choubey, Advocate
For Respondents-State	:	Shri Sangharsh Pandey, Dy. GA for the State

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****22/09/2015**

1. Petitioner is working as Superintendent of Pre-metric Schedule Caste Boys Hostel, Kharora, Block Tilda, District Raipur. By the impugned order, he has been posted in the same capacity at pre-metric Tribal Boys Hostel, Bhandarpuri, Block Aarang, District Raipur.
2. It is argued that the order has been passed to accommodate respondent No.3, who was earlier transferred to Bhandarpuri, however, his representation has been allowed at the intervention of the Hon'ble Minister resulting in sending the petitioner to Bhandarpuri. Learned counsel would also submit that the petitioner has only 1 & ½ years to attain the age of superannuation and is suffering from neuropathic disorder and is obtaining

treatment at Raipur, therefore, his shifting to Bhandarpuri would cause immense hardship.

3. It is to be seen that at present the petitioner is not posted at Raipur, but he is posted at Kharora, Block Tilda, District Raipur. Bhandarpuri is also situated within block Arang, district Raipur, therefore, there appears no difficulty for the petitioner to obtain treatment at Raipur. Likewise, the ground urged *viz a viz* the age of superannuation also merits rejection for the fact that under the extant government instructions an employee who is left with less than one year to attain the age of superannuation should ordinarily be posted within the home district. There is no bar for transfer of such employee within the district, therefore, since the petitioner would remain within the district despite the impugned order, the said ground is not available to the petitioner.
4. The argument regarding the impugned order being *mala fide* to accommodate respondent No.3 also lacks substance because only for the reason that representation of some other employee has been considered, the order does not become arbitrary. If someone else's representation has been considered, it definitely follows that the place where there occurred vacancy and some one else is required to be posted has to be filled up. If this ground is accepted, no representation can ever be allowed and every posting as a consequence of allowing representation would be treated as arbitrary or *mala fide*.
5. For the foregoing, there is no substance in the writ petition. It fails and is hereby dismissed.

Sd/-

Judge
Prashant Kumar Mishra

Ashu