

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 3305 of 2015

1. Abdul Hakim Khan S/o Late Shri Abdul Habib, Aged About 54 Years Posted As Revenue Sub-Inspector, Municipal Corporation, Birgaon, District Raipur (Chhattisgarh), R/o Shiv Mandir, Gali No.3, Moudhapara, Police Station Moudhapara, District Raipur, (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Urban Administration And Development Department, Mahanadi Bhawan, Mantralaya, New Raipur, (Chhattisgarh)
2. The Under Secretary, Government Of Chhattisgarh, Urban Administration And Development Department, Mahandi Bhawan, Mantralaya, New Raipur, (Chhattisgarh)
3. The Commissioner, Municipal Corporation, Birgaon, District Raipur, (Chhattisgarh)
4. The Chief Municipal Officer, Municipal Council, Saraipali, District Mahasamund, (Chhattisgarh)

---- Respondent

For Petitioner	Shri Bharat Rajput, Advocate
For Respondent/State	Shri Sangarsh Pandey, Dy. Govt. Adv.

Hon'ble Shri Justice Prashant Kumar Mishra

C A V Order

15/09/2015

1. Petitioner has assailed the order dated 4-9-2015 whereby he has been posted on deputation to the Municipal Council, Saraipali.
2. Learned counsel for the petitioner would submit that the petitioner's services have been absorbed in the Municipal Corporation, Birgaon, in October, 2014 and since then he is an employee of the Municipal Corporation, therefore, his posting at Municipal Council, Saraipali, on deputation without seeking his consent, is illegal.
3. Municipal Corporation, Birgaon and the Municipal Council, Saraipali, both are local bodies within the control of the Department of Urban Administration and Development. True it is that while sending a person on deputation consent is sought, however, when the deputation is from one establishment to another establishment in the same department, the deputation is only technical in nature, but is not so in its real sense.
4. The deputation in the present case may not require consent of an employee. In any case, the impugned order is only an order of posting against which the petitioner has rushed to this Court without submitting any representation before the department.

5. In the facts and circumstances of the case, the writ petition is disposed of with a direction that in the event the petitioner submits a representation before the respondent No.1 within a period three weeks from today, the competent authority shall consider and decide his representation within a further period of two weeks, in accordance with law and on its own merits.
6. It is made clear that this Court has not expressed any opinion on the merits of the case and the authorities shall decide the representation, on its own merits, strictly in accordance with law, without treating any observation made in this order, as opinion on the merits of the case.

Sd/-

Judge

Prashant Kumar Mishra

Gowri