

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 760 of 2015**

1. Smt. Itturani Dutta, Aged About 44 years, W/o Shri Nirupom Dutta Assistant Grade III, Divisional Forest Office, Balod, Forest Division, Balod, District Balod (C.G.)
2. Sanat Sharma, Aged About 49 Years, S/o Late Shri Shiv Kumar Assistant Grade III Divisional Forest Office, Balod, Range Balod, Tah & Distt. Balod (C.G.)

---- Petitioners**Versus**

1. State Of Chhattisgarh Through: Principal Secretary Forest Department, Secretariat Mahanadi Bhawan, Naya Raipur, Tah & Distt. Raipur (C.G.)
2. Chief Conservator Of Forest Administration (Non-Gazetted) Aranya Bhawan, Jail Road, Raipur, Tah. & Distt. Raipur (C.G.)
3. Chief Conservator Of Forest Durg Circle Durg- 491001, Tah & Distt. Durg (C.G.)
4. Divisional Forest Officer Balod Forest Division Dalli Road In Front Of Collector Bungalow Balod, Tah. & Distt. Balod (C.G.)

---- Respondents

For Petitioners : Shri V.G. Tamaskar, Advocate.
 For Respondents : Shri Bhaskar Payashi, Panel Lawyer.

Hon'ble Shri Justice Prashant Kumar Mishra**C A V Order****Passed on :- 30 /07/2015**

1. The petitioners have preferred this writ petition seeking quashment of the order Annexure-P/3 by which the petitioners, who are working as

AG-III in the Divisional Forest Office, Durg Forest Division, Durg, have been posted in Divisional Forest Office, Balod Forest Division, Balod. The petitioners have also sought quashment of Annexure-P/11 by which the representation preferred by one Anju Kavita Victor, Accountant, has been allowed on the ground that her husband is also working in the Forest Department at Durg.

2. Admittedly, husband of petitioner No.1 Smt. Itturani Dutta is working in the Bhilai Steel Plant at Bhilai, whereas wife of petitioner No.2 Sanat Sharma is working as AG-III in the Dau R. Pra. Higher Secondary School, an aided private school. Under the extant Government instructions, if the husband and wife are working in the same department or in different departments of the State Government, ordinarily, as far as possible they may be posted together. However, the same does not create any right in favour of any of the spouse to claim posting at a particular place. {See : **Shilpi Bose (Mrs.) and others v. State of Bihar & another**¹}
3. In the cases of both the petitioners, their spouses are working at Bhilai in the Bhilai Steel Plant and in a private school respectively. Thus, throughout their career, they shall always remain posted at Bhilai. If the petitioners' contention is allowed, it will create right in their favour to remain posted in Bhilai throughout their career.
4. Even otherwise, this Court in WPS No.2580/2015 {Pratibha Tiwari Vs. The State of Chhattisgarh & others} has held that writ petition claiming posting at a particular place of choice or issuance of direction to the employer to post the petitioner at a particular place is not maintainable.
5. In **Union of India and another Vs. Ashok Kumar Aggarwal**², it has been held thus:-

¹ (1991) Supp 2 SCC 659

² (2013) 16 SCC 147

“18. A representation may be considered by the competent authority if it is so provided under the statutory provisions and the court should not pass an order directing any authority to decide the representation for the reason that many a time, unwarranted or time-barred claims are sought to be entertained before the authority. More so, once a representation has been decided, the question of making second representation on a similar issue is not allowed as it may also involve the issue of limitation, etc. (Vide *Rabindranath Bose v. Union of India*³, *ESI Corpn. v. All India ITDC Employees’ Union*⁴, *A.P. SRTC v. G. Srinivas Reddy*⁵, *Karnataka Power Corpn. Ltd. v. K. Thangappan*⁶, *Eastern Coalfields Ltd. v. Dugal Kumar*⁷ and *Udai Shankar Awasthi v. State of U.P.*⁸)”

6. Insofar as challenge to Annexure-P/11 is concerned, the person affected by the said order i.e. Smt. Anju Kavita Victor has not been arrayed as respondent in this petition. Therefore, on this count, the writ petition suffers from non-joinder of necessary party.
7. Reading of the impugned order (Annexure-P/3) would indicate that the petitioners' posting at Balod has been necessitated on account of creation of new district and new Forest Divisions. Therefore, there is administrative exigency in transferring the petitioners to Balod and this Court while exercising the power under Article 226 of the Constitution of India cannot sit over the said order of the State Government as appellate authority.
8. In the result, the writ petition being bereft of any substance deserves to be and is hereby dismissed.

Sd/-
Judge
 (Prashant Kumar Mishra)

Barve

3 (1970) 1 SCC 84
 4 (2006) 4 SCC 257
 5 (2006) 3 SCC 674
 6 (2006) 4 SCC 322
 7 (2008) 14 SCC 295
 8 (2013) 2 SCC 435