

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Appeal No. 43 of 2016**

Mahendra Sahu S/o Shri Sitaram Sahu, Aged About 27 Years R/o Hasuva, Block Kasdol, Tahsil And P.S. Gidhuri, District Baloda Bazar Bhatapara (Chhattisgarh)

**---- Appellant****Versus**

1. State of Chhattisgarh Through The Secretary, Department of Panchayat And Rural Development, Mahanadi Bhawan, Mantralaya, New Raipur, Raipur (Chhattisgarh)
2. The Jila Panchayat, Baloda Bazar, Bhatapara Through The Chief Executive Officer, Baloda Bazar, District Baloda Bazar Bhatapara (Chhattisgarh)
3. The Block Education Officer, Kasdol, District Baloda Bazar Bhatapara (Chhattisgarh)
4. Government Primary School, Navin Amlidih, Block Kasdol Through The Head Master, District Baloda Bazar Bhatapara (Chhattisgarh)
5. Dikeshwari Sahu, Shiksha Karmi Grade- III, Government Primary School, Navin Amlidih, Block Kasdol, District Baloda Bazar Bhatapara (Chhattisgarh)

**---- Respondents**


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For Appellant : Shri Prateek Sharma, Advocate.  
 For Respondent/State : Shri Gary Mukhopadhyay, Deputy Government Advocate.

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**Hon'ble Shri Navin Sinha, Chief Justice****Hon'ble Shri P. Sam Koshy, J.****Judgment on Board****Per Navin Sinha, Chief Justice****05/02/2016**

1. The present appeal arises from order dated 16.12.2015 dismissing Writ Petition (S) No.4879 of 2015 declining to interfere with the order dated 3.12.2015 rejecting the representation of the Appellant against his order of transfer dated 8.9.2015 from Amlidih to Simga, District Baloda Bazar.

2. Learned Counsel for the Appellant submits that he was working at New Amlidih pursuant to the order dated 23.9.2014. The question of transferring him on 8.9.2015 from Amlidih to Simga on the assumption that he was continuing to work at Amlidih where he was posted earlier is apparent evidence of non-application of mind. Before transferring him from New Amlidih to Simga, he was not given any opportunity to furnish his option before counselling. The post at New Amlidih is still lying vacant and was filled by an adhoc arrangement. The wife of the Appellant is also posted in the same Janpad Panchayat of New Amlidih.

3. Learned Counsel for the State has opposed the appeal submitting that the view taken by the Learned Single Judge that transfer and posting are normal incidence of service and should not be interfered with in judicial review merits no interference.

4. It appears that the Appellant came to this Court earlier in Writ Petition (S) No.3477 of 2015 against the order dated 8.9.2015. The Court declined to interfere and left him to pursue matters in a representation. We are of the considered opinion that if on the previous occasion, the Court found no cause of action, the mere filing of a representation and rejection of the same will resurrect a cause of action which was not found to exist on the earlier occasion. The normal remedy to be pursued against a transfer is to represent as a disciplined government servant. If relief is granted so much the better otherwise government directions have to be complied with. There are no allegations of violation of any statutory rules much less any allegation of malafides. If all that were not sufficient, pursuant to the order passed in Writ Petition (S) No.3477 of 2015, we find that the Appellant in his representation invoked his status as a office bearer of the Union contending that he was entitled to exemption from transfer. Considering the same, the Respondents in the impugned order dated 3.12.2015 have specifically stated that no such materials and documents were furnished by

the Appellant in support of his claim. There is no challenge on facts to this recital in the impugned order either in the writ petition or memo of appeal. We therefore find no reason to interfere.

5. The appeal is dismissed.

Sd/-  
(Navin Sinha)  
**CHIEF JUSTICE**

Sd/-  
(P. Sam Koshy)  
**JUDGE**