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HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (S) No.686 of 2016

Satyanarayan Sahu, S/o. Fattelal Sahu, aged about 48 years,
R/o. Village and Post Paoni, Police Station and Tahsil
Bilaigarh, Civil and Revenue District Baloda Bazar-Bhatapara
(C.G.)

---- Petitioner

Versus

1. The State of Chhattisgarh, through : its Secretary, School Education Department, Mahanadi Bhawan, Mantralaya, Capital Complex, New Raipur, District Raipur (C.G.).
2. Collector-cum-District Mission Director, Rajeev Gandhi Shiksha Mission (Sarva Shiksha Abhiyan), Baloda Bazar, District Baloda Bazar-Bhatapara (C.G.)
3. Rajeev Gandhi Shiksha Mission, through: Mission Director, Rajeev Gandhi Shiksha Mission, Chhattisgarh, Raipur, District Raipur (C.G.)
4. Director, Public Instructions, Directorate, Raipur, District Raipur (C.G.)
5. Jhunnilal Dewangan, Headmaster, Govt. Middle School, Bandari, Block Bilaigarh, Police Station and Post Bilaigarh, Civil and Revenue District Baloda Bazar-Bhatapara (C.G.)
6. Shyamdas Manikpuri, Headmaster, Govt. Middle School, Amaldiha, Police Station and Post Bilaigarh, Civil and Revenue District Baloda Bazar-Bhatapara (C.G.)
7. Ramkumar Sahu, Headmaster, Govt. Middle School, Sutiurkuli, Police Station and Post Bilaigarh, Civil and Revenue District Baloda Bazar-Bhatapara (C.G.)

---- Respondents

For Petitioner:	Mr. Manoj Paranjpe, Advocate.
For State/Respondents	Mr. Dhiraj Kumar Wankhede, Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

ORDER ON BOARD

28/03/2016

(1) The petitioner, by way of instant writ petition, is challenging the legality, validity and propriety of the order dated 15.02.2016 passed by the respondent No.2/Collector-cum-District Mission Director, Rajeev Gandhi Shiksha Mission (Sarva Shiksha Abhiyan), whereby the petitioner has been relieved from the post of Block Resource Coordinator as well as from the post of Block Resource Person and has been posted at Govt. Higher Secondary School, Sonakhan, Block Kasdol, District Baloda Bazar-Bhatapara.

(2) The petitioner is holding the substantive post of Lecturer (Biology) and is an employee of School Education Department. Vide order dated 08.08.2014, the petitioner was posted on deputation by Collector-cum-District Mission Director, Rajeev Gandhi Shiksha Mission, Baloda Bazar-Bhatapara. The petitioner was sent on deputation on the post of Block Resource Person and was posted as Block Resource Coordinator (Science), Rajeev Gandhi Shiksha Mission, Bilaigarh.

(3) Learned counsel appearing for the petitioner would submit that the order of deputation was passed after obtaining consent of the petitioner and the parent department i.e. School Education Department, and petitioner was also drawing salary from Rajeev Gandhi Shiksha Mission and he was also getting the deputation allowance. He would further submit that the post of Lecturer is not

lying vacant at Govt. Higher Secondary School, Sonakhan, Bilaigarh, District Baloda Bazar-Bhatapara and the same has been certified by the Block Education Officer of Block Kasdol.

(4) In the matter of **Ashok Kumar Ratilal Patel Vs. Union of India**¹, their Lordships of the Supreme Court have pointed out the difference between transfer on deputation and appointment on deputation and observed as under:-

“Ordinarily transfers on deputations are made as against equivalent post from one cadre to another, one department to another, one organization to another, or one Government to another; in such case a deputationist has no legal right in the post. Such deputationist has no right to be absorbed in the post to which he is deputed. In such case, deputation does not result into recruitment, as no recruitment in its true import and significance takes place as the person is continued to be a member of the parent service.

However, the aforesaid principle cannot be made applicable in the matter of appointment (recruitment) on deputation. In such case, for appointment on deputation in the services of the State or organisation or State within the meaning of Article 12 of the Constitution of India, the provisions of Article 14 and Article 16 are to be followed. No person can be discriminated nor it is open to the appointing authority to act arbitrarily or to pass any order in violation of Article 14 of the Constitution of India. A person, who applies for appointment on deputation has indefeasible right to be treated fairly and equally and once such person is selected and offered with the letter of appointment on deputation, the same cannot be cancelled except on the ground of non-suitability or unsatisfactory work.

¹ 2012 (7) SCC 757

The present case is not a case of transfer on deputation. It is a case of appointment on deputation for which advertisement was issued and after due selection, the offer of appointment was issued in favour of the appellant. In such circumstances, it was not open for the respondent to argue that the appellant has no right to claim deputation and the respondent cannot refuse to accept the joining of most eligible selected candidate except for ground of unsuitability or unsatisfactory performance”

(5) The present case is a case of transfer on deputation and petitioner has no right to claim continuation or right to claim deputation. {See **Union of India & another Vs. S.N. Maity & another²**}.

(6) Since during pendency of the writ petition, the Collector-cum-District Mission Director, Rajeev Gandhi Shiksha Mission, by order dated 15.02.2016, has posted the petitioner at Govt. Higher Secondary School, Sonakhan, Block Kasdol, District Baloda Bazar-Bhatapara and in view of legal position stated hereinabove and the petitioner sent on deputation can be repatriated to the parent department, he has no right to claim continuation on the said post or right to claim deputation.

(7) In view of above, I do not find any illegality in the order impugned warranting interference of this court under Article 226 of the Constitution of India.

(8) For the reasons mentioned hereinabove, the petition being

² 2015 (4) SCC 164

devoid of merit is liable to be and is hereby dismissed. No order as to costs.

Sd/-

(Sanjay K. Agrawal)
Judge