

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 5554 of 2016

Shakir Ali Siddiqui S/o Mumtaj Ali Siddiqui, Aged About 55 Years Posted As Training Officer, Grade I , At Women I.T.I. Koni, Bilaspur, R/o I.T.I. Colony, Koni, Post Koni, Tahsil & District Bilaspur Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary Technical Education Department, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur Chhattisgarh
2. Deputy Secretary, Skill Development, & Technical Education & Employment Department Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur Chhattisgarh
3. Commissioner Cum Secretary, Directorate Of Employment & Training Indrawati Bhawan, Naya Raipur, Raipur Chhattisgarh
4. Ku. Santoshi Kaushik Training Officer (Language / Hindi) I.T.I, Kurud, District Dhamtari Chhattisgarh

---- Respondents

For Petitioner	:	Shri Mateen Siddiqui, Advocate
For State	:	Shri D.R. Minj, Dy .Govt. Advocate

S.B.:Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

06/10/2016

Heard on admission.

1. The transfer order is under challenge on the ground that the petitioner is being transferred to accommodate an employee who is getting less pay as compared to the petitioner. The next ground is that the petitioner is being transferred to an ITI where there is no post to accommodate the petitioner. The third ground is that instead of petitioner, another officer posted in Men's Polytechnic at Bilaspur ought to have been transferred. The fourth ground is that the petitioner's wife is suffering from disability as evident from Annexure P-6. Therefore, the petitioner ought not to have been transferred.

2. In the petition, there is no categoric averment that there is no post of Training Officer Grade- I available at Kurud. On the other hand, in para 8.6 of the petition, it has been clearly stated that there are two sanctioned posts of Training Officer Grade-I at Kurud and in the same paragraph, the averment is that one Smt. Archana Bhandarkar has also been posted. Therefore, this ground is not made out.

The other ground that the petitioner is being substituted by an officer who carries lower scale of pay is liable to be rejected at the threshold. There is no law that an officer can be substituted only by an officer carrying the same pay scale as the officer under transfer.

The third ground that in place of the petitioner, another officer posted in Mens' Polytechnic ought to be transferred may not be raised because it is for the State to decide which officer should be posted. Neither the petitioner nor the Court has this choice to dictate as to who should be shifted.

The last ground is with regard to ailment of the petitioner's wife. Annexure P-6 is the document placed on record which shows wife of the petitioner suffers from some kind of locomotive disability. However whether the disability is of such a nature as to protect the petitioner from transfer is a matter to be considered only by the transferring authority and not by the Court.

3. Considering that the petitioner has remained posted at this place since very long time, that by itself is an administrative exigency to transfer him. However, if the petitioner prefers a representation on the ground of his wife's disability, the authority may consider whether the petitioner should be posted at any nearer station. The representation of the petitioner shall be considered within a period of 4 weeks from the date of its submission.
4. With the observation and direction as above, the petition is finally disposed off.

Sd/-
(Manindra Mohan Shrivastava)
Judge