

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 5854 of 2016

- Basant Kumar Kosaria S/o Pardesi Ram Kosaria, Aged About 43 Years Assistant Veterinary Field Officer, Posted As Veterinary Hospital, Chirmiri, District Korla (Chhattisgarh), R/o Chirmiri, District Korla (Chhattisgarh), Civil And Revenue District Korla, (Chhattisgarh)

---- Petitioner

Versus

- State Of Chhattisgarh Through: The Secretary, Animal Husbandary Department, Mahanadi Bhawan, Naya Raipur And District Raipur, (Chhattisgarh)
- Director, Animal Husbandry Department, Indravati Bhawan, Naya Raipur, District Raipur, (Chhattisgarh)
- Deputy Director, Animal Husbandry Department, At Baikunthpur, District Korla, (Chhattisgarh)
- Veterinary Assistant Surgeon, Veterinary Hospital, Chirmiri, District Korla, (Chhattisgarh)

---- Respondents

For Petitioner : Mr. A.K. Prasad, Advocate
For State : Mr. R.K. Gupta, Dy. Advocate General

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

25/10/2016

Heard.

1. The transfer order has been challenged on the ground that the petitioner is posted in scheduled area since 1995 and when occasion arose for transfer, the petitioner is again transferred to Gariyaband, which is also a scheduled area. It is submitted that as per policy dated 03.06.2015, in such a case, the petitioner should have been considered for transfer outside the scheduled area. Further submission is that the petitioner is an office bearer having being elected as the District President in the year 2014 and is

posted at the present post of posting since the date of election. The third ground is that the children of the petitioner are studying in the school, if the petitioner is transferred at this stage, the petitioner will suffer serious hardship.

2. As far as personal ground of hardship is concerned, this cannot be appreciated at this stage because the transfer order has been passed in the month of July.

The issue whether an officer bearer is entitled to exemption from transfer for a period of three years of posting at a particular place of posting has already been decided by this Court in **Writ Petition (S) No.3510 of 2016** vide order dated **02/09/2016** to hold that the provision is available to an eligible office bearer provided he has not completed three years of posting at a particular place of posting. The petitioner has remained posted in the present place of posting since 1995, therefore, prediction against the transfer on the ground that he is an office bearer is not available.

3. However, one of the ground raised in the petition that the petitioner has remained posted in the scheduled area requires consideration by the respondent- transferring authority because the petitioner has remained posted in the scheduled area continuously since 1995. The place where the petitioner is transferred is also a scheduled area.
4. The petitioner has already made representation to the State Government. Let the petitioner's representation be considered and appropriate order thereon be passed by the transferring authority to transfer the petitioner to a place other than scheduled area within a

period of three weeks. Considering that the petitioner has approached this Court after three months of passing of the transfer order, no interim relief can be granted. However, the respondents shall ensure to decide the petitioner's representation within a period of three weeks from the date of receipt of a copy of this order and appropriate order be passed in the case of the petitioner's transfer as per provisions of the policy dated 03.06.2015. For the period of three weeks, no coercive steps shall be taken against the petitioner if no one has joined at the place of posting of the petitioner.

5. With the aforesaid observations / directions the petition is finally disposed off.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Chandra