

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 549 of 2016**

Chonhas Toppo S/o Lt. Shri Dhan Masih, Aged About 52 Years Working On The Post Of Technical Assistant Government Polytechnic Ambikapur, R/o Namnakala, Near Navin Kirana Store Ambikapur, P.S. Ambikapur, District Surguja (Chhattisgarh)

---- Appellant**Versus**

1. State Of Chhattisgarh Through The Secretary, Skill Development, Technical Education And Employment Department, Mantralaya, Mahanadi Bhavan, Capital Complex, Naya Post Office Rakhi, District Raipur, (Chhattisgarh)
2. Senior Secretariat Committee, General Administration Department, Through The Secretary, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur, (Chhattisgarh)
3. Under Secretary, State Of Chhattisgarh, General Administration Department, Through The Secretary, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur (Chhattisgarh)
4. Director, Technical Education Directorate Indravati Bhawan, Naya Raipur, District Raipur, (Chhattisgarh)
5. Principal Government Polytechnic, Baikunthpur, District Koriya, (Chhattisgarh)
6. R.J.Pandey, Principal Govt. Polytechnic Baikunthpur, District Koriya (Chhattisgarh)
7. Dindayal Painkara, Aged About 30 Years Working On The Post Of Technical Assistant Government Polytechnic, Ramanujganj, P.S. Ramanujganj, District Balrampur- Ramanujganj (Chhattisgarh)

---- Respondent

For Appellant : Shri B.P.Singh, Advocate
 For Respondent/State : Shri Arun Sao, Deputy Advocate General.

Hon'ble Shri Deepak Gupta, Chief Justice
Hon'ble Shri Sanjay Agrawal, J.

Judgment on Board**Per Deepak Gupta, Chief Justice****14/12/2016**

1. The appeal is admitted for hearing. With the consent of learned counsel for the parties, the case is being heard and disposed of finally.
2. This appeal is directed against the judgment dated 27.10.2016 passed by the learned Single Judge in Writ Petition (S) No. 5954 of 2016 whereby the writ

petition filed by the Appellant has been disposed of in the following terms:

"The allegations of malafide and exercise of power to victimize him is also not made on the ground that the Principal, against whom he has made complaint, has also been transferred at Ramanujanj. This by itself, without any thing more, does not establish malafide. Merely because the petitioner is having some inconvenience due to aforesaid transfer order, it does not mean that the petitioner has right to seek posting at the place, where the concerned Principal is not posted. Therefore, it is made clear that the petitioner has no right to seek posting according to his choice. However, in the earlier petition filed by the petitioner as also before the respondent, the petitioner has taken the ground that he has remained posted in scheduled area for a long period, therefore, as per policy dated 03.06.2015, he is entitled to be considered for transfer in any other place in the State of Chhattisgarh, which is not the scheduled area. This aspect requires consideration by the respondents. Let the petitioner's representation be considered and decision be taken thereon, considering that the petitioner has remained posted in the scheduled area for a long period and he is entitled to be considered for posting in any other place which is not a scheduled area. The decision may be taken as early as possible. In any case, till the decision of petitioner's representation, the petitioner may continue at Ramanujanj and thereafter he may be sent to any other station which is not a scheduled area."

3. The main grievance of the Appellant is that right from his initial appointment in the year 1987, he has always been serving in scheduled areas. He has never been posted outside the scheduled area. The Appellant/Petitioner is aggrieved by the impugned order in as much as it again directs that his representation be decided.
4. In this behalf, it has been pointed out that earlier, the Petitioner had filed a petition being Writ Petition (S) No. 3207 of 2016 which was disposed of by directing him to make a representation. This representation was not disposed of and therefore, the Petitioner filed Writ Petition (S) No. 4660 of 2016. The second writ petition was disposed of with a direction to the Respondents to consider and decide the representation of the Petitioner within a period of four weeks.

Thereafter, the Committee of Senior Secretaries considered the representation of the Petitioner and came to the conclusion that the transfer of the Petitioner had been made in administrative interest and it did not violate the transfer policy and therefore, rejected the representation. The Petitioner then filed Writ Petition (S) 5954 of 2016 in which again the learned Single Judge after making some observations in favour of the Petitioner had again sent him back to the Committee of the Senior Secretaries.

5. The grievance of the Appellant is that he cannot be sent back to the Committee of the Senior Secretaries time and again. From the facts placed on record, it is more than obvious that from 1987 till now, i.e. almost for two decades, the Petitioner is serving in scheduled areas i.e. tribal areas and deemed to be difficult areas. It may be true that the Petitioner himself is a tribal but that does not mean that he has to spend his entire career in the scheduled area. He and his family members also have a hope that like other employees of the government, they will also be posted in non-scheduled areas sometimes during the period of service. The order of the Committee of Senior Secretaries is totally wrong because they have not even looked into the main grievance of the Appellant that he right from his initiation of service has been serving in scheduled areas.

6. We therefore allow this appeal and modify the order of the learned Single Judge and direct that within two months from today, the State/Respondents shall be posted in a non-scheduled area and till such order is passed, the Appellant shall be allowed to continue at Ambikapur where he is presently working.

7. The appeal is allowed in the aforesaid terms.

Sd/-

(Deepak Gupta)
CHIEF JUSTICE

Sd/-

(Sanjay Agrawal)
JUDGE