

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****WPS No. 3665 of 2016**

- Dr. C. K. Mishra S/o S. P. Mishra, Aged About 43 Years Occupation Service- Working As Assistant Veterinary Surgeon In The Office Of Manager, Kukut Palan Prakshetra, Sakalo, Ambikapur, Distt Sarguja, (Chhattisgarh)

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Its Secretary, Department Of Animal Husbandary, Mantralaya, Mahanadi Bhawan, Naya Raipur, (Chhattisgarh)
2. Director Veterinary Services Raipur, District Raipur, (Chhattisgarh)

---- Respondents

For Petitioner	:	Mr. Vinay Pandey, Advocate
For State	:	Mr. Sangharsh Pandey, Dy. Govt. Advocate

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****16/09/2016**

Heard.

1. The transfer order is under challenge on the ground that the petitioner, being an office bearer having been elected as President of State Level Organization, is entitled to exemption from transfer for a period of 03 years as per circular dated 24.06.1996 promulgated by the then State of Madhya Pradesh and adopted by the State of Chhattisgarh on 25.08.2004.
2. Learned State counsel submits that earlier there existed a policy of granting exemption to the office bearer, that policy was withdrawn and amendment was made by the then State of Madhya Pradesh in circular dated 24.06.1996, which has been adopted by the State of Chhattisgarh. He further submits that now according to new policy, the benefit of exemption would not apply for the second term. Earlier, in the year 2011, the petitioner was elected as an officer bearer, therefore, exemption would not apply to the petitioner.

3. Learned counsel for the petitioner replies by submitting that there is no specific clause to this effect in the Policy dated 24.06.1996 that for the second term, the benefit for exemption would not be available.
4. A perusal of Circular dated 24.06.1996, which was promulgated by the then State of Madhya Pradesh and adopted by the State of Chhattisgarh on 25.08.2004, reveals in the opening para that the provision relating to benefit of exemption for two terms is being amended. In para 2, it has been stated that now the criteria is being amended and thereafter follow 3 specific clauses '(अ)', '(ब)', and '(स)'. In these 3 clauses, there is no specific stipulation that the benefit of the exemption would be available for two terms.
5. However, the policy being an administrative instruction of the Government, the intention behind such as administrative instruction can best be explained by the State by taking specific stand. The stand of the State before the Court is that the benefit of exemption for two terms was intended to be withdrawn, which gave an occasion for the Government to amend earlier policy of exemption to office bearer.
6. As it is only a matter of administrative instruction and not a Statutory Rule or provision of any Enactment made by the legislature, therefore, the State is the best interpreter of its own administrative policy. In case of any doubt, implication of the policy can be best propounded by the State. It is also to be noted that earlier there was existing benefit of exemption for two terms which was not continued while laying down amended policy of exemption to office bearer vide circular dated 24.06.1996, therefore, the implication as stated by the State has to be accepted by the Court.
7. The inevitable conclusion, therefore, is that the State does not intend to extend the benefit of exemption from transfer to an office bearer for more than one term. It may be a different matter that where a person is appointed as office bearer for the first time, he

would be entitled to exemption from transfer for a period of three years which is to be reckoned from the date of posting.

8. In view of above conclusion of this Court, I do not find that there is violation of transfer policy. Therefore, I am not inclined to interfere with the transfer order.
9. Learned counsel for the petitioner submits that the petitioner has come to know that the Collector has also made a recommendation to the State Government stating that the petitioner is required to be continued at the present place of posting vide memo dated 10.08.2016. If there is any such proposal made by the Collector, it is for the State to consider whether the petitioner is to be allowed to continue at the present place till the matter is decided by the State Government.
10. Leaving it open for the State to take appropriate decision on the recommendation of the Collector, the petition is disposed off.

Sd/-
(Manindra Mohan Shrivastava)
Judge