

HIGH COURT OF CHHATTISGARH, BILASPUR

WA No. 81 of 2016

- Arvind Meshram S/O Late Shri Mannu Lal, Aged About 58 Years, Upper Divisional Teacher, Government Pre Middle School, Kailash Nagar, Rajnandgaon, District Rajnandgaon, (Chhattisgarh)

---- Appellant

Versus

1. State Of Chhattisgarh Through: The Secretary, School Education Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, Raipur, (Chhattisgarh)
2. Commissioner, Revenue Division Durg, District Durg (Chhattisgarh)
3. Collector, Rajnandgaon District Rajnandgaon (Chhattisgarh)
4. District Education Officer, Rajnandgaon, District Rajnandgaon, (Chhattisgarh)

---- Respondents

<u>Appearance</u>	:	
For the Appellant	:	Shri Anoop Majumdar, Advocate
For the Respondents/State	:	Shri R.K. Gupta, Dy. G.A.

Hon'ble Shri Justice Printinker Diwaker &

Hon'ble Shri Justice Inder Singh Uboweja

Order on Board

12/02/2016

Per : Pritinker Diwaker, J.

1. Substantive post of the appellant is Upper Division Teacher. Vide order dated 26-10-2015, passed by the Collector, Rajnandgaon considering the paucity of teachers in various schools internal arrangement was made and the appellant was directed to work at Pre Middle School, Kutelikala/ Chhuikhadan. This order was challenged by the appellant in the Writ Petition (S) No.4080 of 2015. The said petition was disposed of by this Court directing the appellant to make representation before the Commissioner, Revenue Division, Durg highlighting his grievances and the Commissioner was directed to decide the same within three weeks from the date of filing of the same. Representation filed by the appellant has been rejected vide order dated 17-12-2015 and it has been held by the Commissioner that the appellant has been asked to work at Kutelikala/ Chhuikhadan, considering the ratio of the students and teachers. This

order was challenged by the appellant/petitioner in Writ Petition (S) No.4984 of 2015. However, vide impugned order dated 15-01-2016, the said writ petition has been dismissed by this Court holding that the representation of the appellant/petitioner has been considered by the Commissioner, the order has been passed in the administrative exigency, considering the public interest and shortage of teachers. It is this order which has been challenged by the appellant in this appeal.

2. Learned counsel for the appellant submits that the finding recorded by the Commissioner regarding ratio of the students and teachers is incorrect. The appellant is the senior most teacher and if at all some one is to be transferred, it should be junior most. It is further argued that the appellant has not been provided conveyance allowance which he is entitled as per rules.
3. We have heard learned counsel for the parties and perused the record.
4. Taking a consistent view with regard to the transfer of Government Servants it has been held by the Apex Court in series of cases, some of them being **Shilpi Bose (Mrs.) and others Vs. State of Bihar and others**, reported in **1991 Supp. (2) SCC 659**; **Mohd. Masood Ahmad Vs. State of U.P. and others**, reported in **2007 (8) SCC 150**; **Union of India and others Vs. S.L. Abbas**, reported in **(1993) 4 SCC 357**; **State of M.P. and another Vs. S.S. Kourav and others**, reported in **1995 (3) SCC 270**; **Union of India & others Vs. Debanath and Another**, reported in **2004 (4) SCC 245** and **E.P. Royappa Vs. State of Tamil Nadu & another**, reported in **1974 (4) SCC 3**, that the transfer is an exigency of service and while transferring the incumbent the Government is not required to specify as to what was the exigency which propelled the authority to do so. The Apex Court went on to hold

that a Government servant holding a transferable post has no vested right to get stuck to a particular place of his own choice. Of course, the transfer orders should not be resorted to mala fides or any grudge nurtured against a government servant and if ultimately it is established that the transfer of the incumbent from one place to the other is actuated by some extraneous consideration, the legal remedy is always available to him. Further stress has been laid in holding that generally the Courts should not go into the expediency of posting an officer at a particular place because if the day to day orders issued by the government or its subordinate authorities are subjected to judicial interference, it would lead to a complete chaos in the administration which would not be conducive to the public interest. While dealing with the transfer matters it has been reiterated by the Apex Court that the Courts or Tribunals are not the appellate forums to decide such matters and the focus should always be on the smooth discharge of administrative functions.

5. The representation of the appellant has been duly considered by the Commissioner. We find no reason to interfere with the impugned order, the appeal has no substance and the same is accordingly dismissed. However, it is made clear that if a representation is made by the appellant claiming any conveyance allowance, the same may be considered as per rules and order may be passed expeditiously.

Sd/-
(Pritinker Diwaker)
 JUDGE

Sd/-
(I.S. Uboweja)
 JUDGE