

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 3349 of 2016

- Virendra Singh Jadaun S/o Shri Ram Singh, Aged About 58 Years
R/o Palash 702, Green Garden Colony, Post & P.S. Civil, Bilaspur,
District Bilaspur, (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Fisheries, Government Of Chhattisgarh, Mahanadi Bhawan, Raipur, District Raipur, (Chhattisgarh)
2. Director, Department Of Fisheries, Government Of Chhattisgarh, Mahanadi Bhawan, Raipur, District Raipur, (Chhattisgarh)
3. Deputy Director, Department Of Fisheries, Composite Building Bilaspur, District Bilaspur, (Chhattisgarh)
4. Satish Menon, S/o Late Shri K. N. R. Menon, Aged About 49 Years R/o E- 30, Archana Vihar, Nehru Nagar, P.S. Civil Lines, Bilaspur, District Bilaspur, (Chhattisgarh)

---- Respondents

For Petitioner : Mr. Prateek Sharma, Advocate
For State : Mr. R.K. Gupta, Dy. Advocate General

Hon'ble Shri Justice Manindra Mohan Shrivastava

Oral Order

08/08/2016

1. Transfer order dated 20.07.2016 has been challenged on the ground that it has been passed on mis construction of order dated 30.09.2015 in Writ Petition (S) No. 2930 of 2014 filed by respondent No.4.
2. Learned counsel for the petitioner argued that the petition filed by respondent No.4 was allowed quashing order dated 22.04.2014 only in respect of respondent No.4 on the ground that he had already acted upon the transfer order. There was no direction to pass any fresh order in respect of the petitioner posting also. The earlier order dated 28.09.2013 has been revived without canceling or

setting aside the order dated 22.04.2014. Unless order dated 22.04.2014 is set aside, new order is illegal.

3. Vide order dated 28.09.2013 petitioner was transferred in place of respondent No.4 and vice versa. Petitioner filed a petition challenging his transfer order in Writ Petition (S) No. 3413 of 2013 which was disposed off with the direction to consider petitioner's representation for exemption from transfer on the ground of he being an office bearer. Other contentions raised by the petitioner in that petition were rejected.
4. It appears that in compliance of order dated 18.10.2013 passed in the case of the petitioner, State Government cancelled the transfer order dated 28.09.2013 both in respect of the petitioner as well as respondent No.4. However, by that time respondent No.4 had already carried out the transfer order. He, therefore, challenged order dated 22.04.2014 on the ground that an executed order of transfer could be cancelled. This found favour and order dated 22.04.2014 was set aside by this Court in the Writ Petition filed by respondent No.4. As the transfer of respondent No.4 was in place of the petitioner and vice versa, an occasion arose for passing a fresh order, it is now been done by passing the impugned order.
5. The argument that order dated 22.04.2014 was set aside only in respect of respondent No.4 and not the petitioner cannot be accepted because the petitioner was posted in the place of respondent No.4 and vice versa. The petitioner was party in Writ Petition (S) No. 2930 of 2014, therefore, effect of order dated 30.09.2015 was that the order dated 28.09.2013, stood revived.

The impugned order has been passed only for implementation of order dated 28.09.2013 which stood revived in view of judicial order setting aside order dated 22.04.2014 in respect of respondent No.4 and the petitioner both.

6. Therefore, there is no merit in the petition and is accordingly dismissed.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Chandra