

HIGH COURT OF CHHATTISGARH, BILASPUR**WP(S) No.3973 Of 2015**

Dr.Anjali Dhrua D/o. Shri R.D. Dhruv, aged about 42 years, R/o F 2/1, G.A.D. Colony, Kachna, Raipur, District Raipur at present working Asstt. Professor (Anthropology), Govt. Yoganandam, Chhattisgarh Post Graduate College, Raipur, District Raipur (CG)

---- Petitioner**Versus**

1. State of Chhattisgarh, Through its Secretary, Department of Higher Education, Mahanadi Bhawan, Mantralaya, Naya Raipur (CG)
2. The Deputy Secretary, Department of Higher Education, Mahanadi Bhawan, Mantralaya, Naya Raipur (CG)
3. The Officer In Charge, Director, National Cadet Core, Raipur, District Raipur (CG)
4. The Principal, Govt. Yoganandam, Chhattisgarh Post Graduate College, Raipur, District Raipur (CG)
5. Smt.Sampada Bais (Kashyap), Assistant Professor (Anthropology), Govt. Kaktiya Post Graduate College, Jagdalpur, District Bastar (CG)

---- Respondents

For Petitioner	:	Mr. Vivek Verma, Advocate
For Respondents No.1 to 4	:	Mr.Dhiraj K. Wankhede, G.A.
For Respondent No.5	:	Mr.C.J.K.Rao, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****12/01/2016**

1. The petitioner is Assistant Professor (Anthropology) and she has also been awarded Commandant's Certificate of Merit by NCC Officers Training Academy. She was presently posted at Government PG College, Raipur. By the impugned order, she has been transferred from Raipur to Jagdalpur.

2. The instant writ petition has been filed by the petitioner stating inter-alia that she is NCC Trained Officer to the rank of the Commandant and in Jagdalpur there is no NCC coverage. As per transfer policy dated 21st April, 2005 (Annexure P/7) issued by the Director of National Cadet Core, consultation of Directorate of NCC before transferring the officer was necessary and also pleaded that consultation of Directorate of NCC was necessary as the instructions issued by the Director, Directorate General NCC on 3.1.1986, therefore, transfer of the petitioner in the college where there is no NCC coverage is bad and unsustainable in law and it deserves to be struck down.
3. Return has been filed on behalf of the State/respondents No.1 to 4 stating inter-alia that the petitioner is senior officer of the NCC, but transfer of the petitioner has been made after due approval in coordination during ban period and as such, the petitioner has no right to be posted at particular place and therefore, the petitioner's transfer is in accordance with law and no interference is called for as the petitioner has been transferred on account of administrative exigency and the writ petition deserves to be dismissed.
4. Respondent No.5 has also filed the return in the line of return filed by the State.
5. Learned counsel for the petitioner would submit that since the petitioner is officer of the NCC Rank of Commandant and therefore, as per policy, consultation with Director, Directorate General NCC is absolutely necessary and in absence of that, order of transfer to the present college where there is no NCC coverage is nothing, but to

wastage of the governmental resources and therefore, it deserves to be struck down.

6. On the other hand, learned Government Advocate for respondents No.1 to 4/State would oppose the writ petition and submit that on account of administrative exigency, services of the petitioner have been transferred from Raipur college to Jagdalpur college. There is no such absolute ban on transfer of the NCC personnel without consultation of the Director, Directorate General NCC to the other college having no NCC coverage.
7. Learned counsel appearing for respondent No.5 has also adopted the submission of the State Counsel.
8. It is not in dispute that the petitioner is Assistant Professor of the NCC. She is NCC Trained Officer and has been awarded with Commandant Certificate of Merit by NCC Officers Training Academy. Circular issued by the Director, Directorate General NCC clearly provides that the State Government should consult with Directorate of NCC before transferring the services of NCC Trainee Officers and the State Government and Director, Directorate General NCC have also issued the similar instruction in that behalf. In both the circulars issued by the Directorate of NCC, State Cell (Chhattisgarh) and Director, Directorate General NCC, consultation with Director, Directorate General NCC has been held to be necessary, but there is no such requirement of concurrence, which is apparent from the circular of the Director, Directorate General NCC. Even there is no absolute ban on transfer policy issued for transfer of an officer to a place where there is no

NCC coverage, therefore, transfer of an officer having experience of NCC Training to a place having no NCC coverage finding administrative exigency cannot be held to be illegal, but the fact remains that Government has incurred huge expenses and there is policy of the Director, Directorate General NCC as well as Directorate of NCC, State Cell (Chhattisgarh) to post the officer in a place where NCC coverage is there and consultation of the Directorate of NCC is held to be necessary, therefore, it is directed that if the petitioner makes a representation before the State Government within a period of two weeks from today, the State Government will do well and consider the same with consultation of the Directorate of NCC, State Cell (Chhattisgarh) as per circulars and further consider to transfer the petitioner in a place where NCC coverage is available, subject to availability of post, in accordance with law within a period of 45 days from the date of receipt of representation of the petitioner along with copy of this order. Till the representation is decided, no further coercive steps shall be taken against the petitioner. No order as to cost(s).

Sd/-

(Sanjay K. Agrawal)
JUDGE

B/-