

HIGH COURT OF CHHATTISGARH, BILASPUR**W.P.(S) No. 6208 of 2016**

M.D.Patele S/o Late Shri Birju Patele, Aged About 56 Years
Occupation Service Presently Posted And Working As Assistant
Statistical Officer, Kabirdham Chhattisgarh R/o H-4, New Collector
Colony Kawardha, Distirct Kabridham Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh, Through Secretary, Department Of Planning, Finance And Statistic, Mahanadi Bhawan, Mantralaya Capital Complex, New Raipur Distirct Raipur Chhattisgarh
2. Secretary, General Administrative Department, Mahanadi Bhawan, Mantralaya Capital Complex New Raipur, Distirct Raipur Chhattisgarh
3. Director, Directorate Of Economics And Statistics Block 2, Ground Floor, Indrawati Bhawan, Naya Raipur, Distirct Raipur Chhattisgarh
4. Commissioner-Cum-Director, Directorate Of Economics And Statistics Block 2, Ground Floor, Indrawati Bhawan, Naya Raipur, Distirct Raipur Chhattisgarh
5. Collector, Kawardha, Distirct Kabirdham Chhattisgarh
6. District Planning And Statistic Officer, Kabirdham Chhattisgarh

---- Respondents

For petitioner - Shri Rajeev Shrivastava, Advocate.
For Respondent/State – Shri Anil S. Pandey, G.A.

Hon'ble Shri Justice Goutam Bhaduri**Order****11/11/2016**

1. Petition is against the order dated 30/09/2016 (Annexure P-1).
Petitioner was transferred by an order dated 30/07/2016 (Annexure P-2) whereby petitioner was transferred from Kabirdham to Gariyaband. The said transfer order was subject of challenge in WPS No.3900/2016 wherein this court on 19/08/2016 has passed the following order in para 4 :-

“Considering the fact that transfer being the incident of service and the ancillary difficulty may arise, therefore, for the reasons which has been projected by the counsel for the petitioner, prima facie, I am not inclined to interfere with it. Since, the petitioner has filed a

representation before the Transfer Committee, he may pursue his representation which has been made on 3/08/2016 and the Transfer Committee may decide the same according to its own merit after hearing the petitioner within a further period of 4 weeks from today and till then the the effect and operation of the transfer order dated 30/07/2016 with respect to the petitioner shall remain stayed.”

2. Learned counsel for the petitioner submits that the representation has been decided which would show that the petitioner has been transferred with stigma on the punitive ground, therefore said transfer order cannot be made which would be violative of his right and places his reliance in case of **Somesh Tiwari Vs. Union of India and Others** reported in **(2009) 2 SCC 592**. Learned counsel submits that the petitioner further made an application for transfer either to Durg, Bilaspur or Rajnandgaon.
3. Perused the order passed in representation which shows that the petitioner primarily has been transferred on the administrative exigency alongwith rejecting representation. It is also observed in para that the petitioner is posted at Kabirdham for the last 13 years and has not performed well but despite this fact remains initially it is stated that the petitioner has been transferred on the administrative exigency. In view of this, since transfer is an incident of service, I am not inclined to interfere in that.
4. Accordingly, the petition is dismissed.

Sd/-

(Goutam Bhaduri)

JUDGE