

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 4128 of 2016

Sanjay Kumar Kaushik S/o Shri Ramayan Prasad Kaushik, Aged About 38 Years R/o Village Hawfa, Post Sakri, Police Station Chakarbhatha, District Bilaspur (Chhattisgarh).

---- Petitioner

Versus

1. State Of Chhattisgarh Through Its Secretary, Department Of Food, Civil Supply And Consumer Protection Department, Secretariat, Mahanadi Bhawan, New Raipur, P. S. And Post Rakhi District Raipur (Chhattisgarh).
2. Collector, Office Of The Collectorate, Sukma District Sukma (Chhattisgarh).
3. Collector, Office Of The Collectorate Rajnandgaon, District Rajnandgaon (Chhattisgarh).

---- Respondents

For Petitioner	:	Shri Abhishek Pandey, Advocate
For Respondent-State	:	Shri R.K. Gupta, Dy. A.G., on advance copy

S.B.:Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

29/08/2016

Heard on admission.

1. The petitioner has filed this petition on the grievance that though the transfer order has been issued on 30.07.2016, he is not being relieved. He submits that the present policy dated 11.06.2016 does not prohibit relieving on the ground that reliever has not come because it is not a case of transfer from scheduled area to non-scheduled area but transfer from scheduled area to scheduled area only.
2. On the other hand, learned State counsel submits that the

petitioner is posted at a sensitive place in core scheduled area and if the reliever of the petitioner has not come, relieving of the petitioner may adversely affect the administrative exigency.

3. At the first place, the policy which requires that the Government servant of scheduled area shall not be relieved till reliever has not joined, is applicable only in the case where the transfer is from the scheduled area to a non scheduled area as clearly provided in clause 2.6 of policy dated 11.06.2016.

4. The issue regarding implementation of transfer order, has been considered by this Court in the case of **Ms. Manisha Agrawal Vs. State of Chhattisgarh and Others, 2015(4) C.G.L.J.182**, wherein relying upon several judgment of the Supreme Court, it has been held by this Court that once the employee has been transferred, it is required to be complied with unless it is modified, varied or cancelled.

5. Therefore, in these circumstances, either the transfer order has to be implemented or the State has the option to cancel, vary or modify or keep in abeyance.

6. Accordingly, this petition is disposed off with the direction that if the transfer order of the petitioner is not cancelled, varied or kept in abeyance by the respondent-Transferring Authority, the petitioner would be required to be relieved towards implementation, execution of the transfer order.

Sd/-
(Manindra Mohan Shrivastava)
Judge