

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 6903 of 2016

Chandresh Divya S/o Late Sukhdev Divya, Aged About 45 Years Working As
Training Superintendent, I.T.I. Ambikapur, District Surguja Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Technical Education And Employment & Training, Mantralay, New Raipur, P.S. Rakhi, Raipur, District Raipur Chhattisgarh
2. Director, Directorate Of Technical Education And Employment & Training Indrawati Bhawan, Block 3 And 4, 1st, 3rd And 4th Floor, Naya Raipur, Chhattisgarh
3. Joint Director, (Training), I.T.I. Regional Office, Ambikapur, District Sarguja Chhattisgarh

---- Respondents

Shri Vinod Deshmukh, counsel for the petitioner/s.
Shri B.Gopakumar, Dy.A.G. for the State.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

20/12/2016

The petitioner, who suffers from 90% permanent disability, has applied to the Government for considering his case for transfer to other place including his home district.

2. Learned counsel for the petitioner submits that the petitioner has remained posted as Training Superintendent at ITI, Ambikapur since 2002. Due to his disability, the petitioner is entitled to be considered in the matter of transfer and posting, though it may be subject to administrative exigency. The petitioner has already applied in the year 2013 that as he has served for long time at Ambikapur, he may be considered for posting at any of the station stated in his application dated 02/05/2013 by considering it to be a transfer on his own request, but till date, the same has not been considered.

3. Learned State counsel submits that the representation of the petitioner shall be considered by the competent authority specially taking into consideration the nature and extent of disability.

4. Transferring a Government servant on his own request is not an unusual affair. The State Government has been transferring large number of employees on their own request. The petitioner is a person having 90% disability. Disabled and handicap persons are entitled to be specially considered and infact, under the provisions of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, the Government has also made provisions for consideration of cases of disabled persons including reservation for their appointment in Government service.

The respondents being a welfare State, cannot remain oblivious of its duty to consider the cases of disabled persons while making transfers. In the transfer policy dated 11/06/2016, clause 2.9 indicates that transfer can be made on the request of the Government servants. Therefore, in these circumstances, when a person suffering from disability applies for transfer, the competent authorities are required to consider his case by treating him as a separate class to necessitate special attention. It is believed that the Government would come with a clear policy with regard to consideration of application made by persons suffering from disability by taking into consideration the nature and extent of disability and nature of duty they are performing and all other administrative considerations.

5. In view of above consideration, I am inclined to direct respondent authorities to consider petitioner's case for transfer on his own request by treating him as a special class of disabled persons.

6. Let representation of the petitioner be considered by the transferring authority in the coming transfer season and all efforts be taken to adjust the disabled employee as far as possible, subject to administrative exigency, by taking into consideration the nature of disability and the duty he is performing.

7. The petition is accordingly disposed off.

Sd/-
(Manindra Mohan Shrivastava)
Judge