

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WRIT APPEAL No. 232 of 2017**

Smt. Vijaya Ogar W/o Shri Naval Chand Ogar, Aged About 30 Years
Occupation Assistant Teacher Panchayat Primary School Jaamguda
Sankul-Sargipal Block Jagdalpur, P. S. Jagdalpur, District Bastar
(Chhattisgarh).

---- Appellant

Versus

1. State of Chhattisgarh Through Secretary, Department Of Panchayat and Rural Development Mantralaya, Mahanadi Bhawan Naya Raipur, P. S. Abhanpur District Raipur (Chhattisgarh).
2. Collector, Bastar, Office of Collector, District Bastar, (Chhattisgarh)
3. Chief Executive Officer, Jila Panchayat Sukma, Office Of Chief Executive Officer, Jila Panchayat, Sukma, P.S. Sukma, District Sukma, (Chhattisgarh)
4. Chief Executive Officer, Jila Panchayat, Bastar Office Of Chief Executive Officer Jila Panchayat, Bastar, P.S. Bastar, District Bastar, (Chhattisgarh)

---- Respondents

For Appellant	: Ms. Deepali Pandey, Advocate
For State	: Shri R.K. Gupta, Deputy Advocate General
For Respondent No.3	: Shri R.S. Baghel, Advocate

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice**Hon'ble Shri Sharad Kumar Gupta, Judge****Order On Board****Per Thottathil B. Radhakrishnan, Chief Justice****25/07/2017**

1. This appeal is by the writ petitioner.
2. Petitioner, a female employee, who was working as an Assistant

Teacher (Panchayat) in a Primary School, Gongla in District Sukma was transferred to District Bastar in August 2016. That transfer was obviously with the concurrence of the Jila Panchayat, Sukma and the Jila Panchayat, Bastar. This could have been done under the reciprocal authority to effect such transfers. Nobody had complained about petitioner's such transfer. However, the said transfer was cancelled later on, based on a Circular of the State Government issued on the premise of the decision of this Court in '*Geeta Sukhdeve vs. State of Chhattisgarh and others*' {W.P.(S) No. 1273 of 2016}.

3. When the appellant challenged for cancellation of her transfer before the learned Single Judge, it was dismissed on the basis that the Circular was in conformity with the ratio of the decision of this Court in *Geeta Sukhdeve (supra)*. But the fact of the matter remains that a transfer which was authorized and concurred to by two Jila Panchayats and was given effect to, need not have been reversed particularly when it provided a working arrangement for a woman to be along with her spouse. The mere fact that the spouse is engaged in a Central Government establishment does not by itself deprive the transferring authority to effect a transfer. This is because once transfer of such a nature has been granted, that has to be treated as having been done under the volition of the employer. Therefore, no harm would result even if the appellant was not sent back to District Sukma by canceling her earlier transfer.

Therefore, ends of justice required that she be permitted to continue in District Bastar to which place she was transferred on 26/07/2016, notwithstanding the ratio of the judgment of this Court in *Geeta Sukhdeve (supra)*.

4. In the result, while we sustain the reference made to *Geeta Shukdeve (supra)* in the impugned judgment, we are of the view that ends of justice require that the appellant/petitioner be permitted to continue in District Bastar following her transfer to that District on 26/07/2016. The writ appeal and the writ petition will stand ordered accordingly in supersession of the order that was impugned before the learned Single Judge and the judgment impugned in this writ appeal.

Sd/-

(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-

(Sharad Kumar Gupta)
Judge