NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 6082 of 2017

- B.D. Kushwaha S/o Shri Heeralal Kushwaha Aged About 58 Years R/o Near Shiv Mandir Prema Bag Government Qtr. No. 17 Baikunthpur District Korea Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary Department of Revenue Mahanadi Bhawan Naya Raipur District Raipur Chhattisgarh.

2. Collector, Korea, District Korea Chhattisgarh.

---- Respondent

For Petitioner Shri Ravindra Sharma, Advocate.
For Respondents Shri R.K.Mishra, Dy. A.G.

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

15/11/2017

1. By order dated 14.08.2017 the petitioner who is working as R.I. has been transferred from Office of Collector (Land Record) Korea to District Jashpur on administrative grounds.

2. Challenging the said order the petitioner preferred WPS No. 4183 of 2017 on submission that he is working in the scheduled area for last about 16 years, therefore, he cannot be sent again to a scheduled area. This Court allowed the petitioner to make representation directing the respondents to decide representation within 6 months and till then the

respondents were further directed to not to take any coercive steps against the petitioner.

3. By the present impugned order petitioner's representation has been rejected.

4. Referring to the order passed by the Division Bench of this Court in **Chonhas Toppo vs State of Chhattisgarh and others** in writ appeal No. 549 of 2016 decided on 14.12.2016, it is argued that the petitioner cannot be made to spend his entire career in the scheduled area. It is also argued that the Committee of Senior Secretaries have not properly looked into the matter.

5. In the matter of **Chonhas Toppo** (supra), the Division Bench held thus in paragraphs 5 & 6:-

> "5. The grievance of the Appellant is that he cannot be sent back to the Committee of the Senior Secretaries time and again. From the facts placed on record, it is more than obvious that from 1987 till now, i.e. almost for two decades, the Petitioner is serving in scheduled areas i.e. tribal areas and deemed to be difficult areas. It may be true that the Petitioner himself is a tribal but that does not mean that he has to spend his entire career in the scheduled area. He and his family members also have a hope that like other employees of the government, they will also be posted in non-scheduled areas sometimes during the period of service. The order of the Committee of Senior Secretaries is totally wrong because they have not even looked into the main grievance of the Appellant that he right from his initiation of service has been serving in scheduled areas.

> 6. We therefore allow this appeal and modify the order of the learned Single Judge and direct that within two months from today, the State/Respondents shall be posed in a non-scheduled area and till such order is passed, the Appellant shall be allowed to continue at Ambikapur where he is presently working."

6. An order passed by the Division Bench in similar matter is binding on this Court, therefore, if the same is applied to the facts of the present case, it is manifest that the petitioner is working in the scheduled area for about 16 years, therefore, if he has any grievance against his transfer once again to another scheduled area, the same being contrary to the observation made by this Court in **Chonhas Toppo** (supra) deserves to be interfered with.

7. Considering the entire facts situation of the case, instead of keeping this petition pending the same is allowed at the admission stage and the respondents are directed to pass appropriate orders, posting the petitioner to a non scheduled area and till such order is passed the petitioner shall be allowed to continue at his present place of posting.

8. Accordingly, the writ petition is allowed to the extent indicated above.

Sd/-

Judge
Prashant Kumar Mishra

Akhilesh