

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 6634 of 2016

Moolchand Sahu S/o. Shri Chain Singh Sahu, Aged About 39 Years Occupation Service, Presently Posted As Assistant Teacher Panchayat At Govt. Primary School Doomarpali, Block Magarload, P. S. Magarload, Civil & Revenue Distt. Dhamtari (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary Panchayat And Rural Development Department Mantralaya Mahanadi Bhawan, Capital Complex, Naya Raipur, Distt. Raipur (Chhattisgarh)
2. Collector, Dhamtari, District Dhamtari, Chhattisgarh.
3. Chief Executive Officer, District Panchayat Dhamtari, District Dhamtari (Chhattisgarh)
4. Chief Executive Officer, Janpad Panchayat, Magarload, District Dhamtari (Chhattisgarh)

---- Respondents

Ms. Sunita Jain, counsel for the petitioner/s.
Shri R.K.Gupta, Dy.A.G. for the State / respondents 1 and 2.
None for respondent No.4 though served.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

27/02/2017

The order dated 20/10/2016 passed by respondent No.4 is under challenge mainly on the ground that it is a case of attachment of the petitioner at Girls Middle School, Bhaismundi. In addition, it has also been submitted that the petitioner is suffering from 45% disability and direction to work at two places has resulted in grave hardship. Further, it is submitted that as the petitioner happened to be senior most teacher at Dumarपाली, even there is need of teacher in Girls School, Bhaismundi, any other junior teacher ought to be transferred. It is also submitted that there is no administrative exigency of service in transferring the petitioner.

2. The impugned order has been issued by the Chief Executive Officer/ respondent No.4, who was noticed but has failed to appear and defend the case.

3. The petitioner has placed reliance upon Government circular dated 04/06/2001. This circular prohibits attachment. However, it is not clear whether the circular may be applicable to the employees other than the Government employees. The petitioner is a Shiksha Karmi under the services of Panchayat and he is not a Government Servant.

The other dispute with regard to disability is a matter which are to be taken into consideration.

4. It appears that the petitioner is alleged to have been attached at Middle School, Bhaismundi which should receive proper consideration because it appears that the petitioner has been asked to perform duties of teaching in other school and it is submitted by learned counsel for the petitioner that the salary of the petitioner shall be drawn from Primary School, Dumarpali and the petitioner is working at both the places.

5. Taking into consideration that the petitioner is suffering from 45% disability, respondent No.4 shall consider this aspect and pass appropriate order to make alternative arrangement for posting of a teacher in Primary School, Bhaismundi. This shall be done within a period of six weeks. As soon as another arrangement is made in Girls School, Bhaismundi, the petitioner shall be allowed to continue in the school where he has been substantively posted i.e. Govt. Primary School, Dumarpali.

6. The petition is accordingly partly allowed.

Sd/-
(Manindra Mohan Shrivastava)
Judge