

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 6890 of 2016

Shyam Babu Dhruw S/o Late Sukhu Ram Dhruw, Aged About 53 Years, Occupation Mukhya Pahri Posted In Central Jail Ambikapur, District Surguja Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Home Department Mahanadi Bhawan, Mantralaya, New Raipur, District Raipur Chhattisgarh
2. Jail Superintendent Central Jail Ambikapur, District Surguja Chhattisgarh
3. Jail Director, Jail And Sudharatmak Sevaye, Raipur, District Raipur Chhattisgarh
4. Jail Head Office, Chhattisgarh Raipur, District Raipur Chhattisgarh
5. Office Of The Superintendent, Sub Jail Sukma, District South Bastar (Now The District Sukma Chhattisgarh

---- Respondents

Shri Govind Ram Miri and Shri Basant Kaiwartya, counsel for the petitioner/s.
Shri B.Gopakumar, Dy.A.G. for the State.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

10/01/2017

The petitioner was earlier transferred vide order dated 27/08/2016. The petitioner, earlier filed a petition which was disposed off by this Court vide order dated 20/09/2016 directing consideration of his representation, taking into consideration the submission that the petitioner has remained posted in scheduled area for long time, therefore, he may be considered for posting outside scheduled area in view of Government policy dated 03/06/2015.

Thereafter, the respondents have passed an order on 05/11/2016 rejecting representation, which is under challenge before this Court.

2. Learned counsel for the petitioner submits that even if the petitioner was appointed in Sub-Jail at Sukma and appointment of Jail Prahari is being made circle

wise, in such cases also, the State should consider transferring the employee of local cadre of circle level outside the scheduled area so that the petitioner may also get an opportunity to work in areas which are not considered to be hard stations.

3. Learned State counsel submits that the petitioner was appointed as Prahari in circle – Jagdalpur and it is a local cadre. It is submitted that in the year 2006, Sub-Jail – Sukma was temporarily closed. Therefore, in these extra ordinary circumstances, the petitioner was posted outside the circle and posted at Surguja. Now, the Government has re-opened Sub-Jail at Sukma and therefore, the services of the petitioner is again required. In these circumstances, the petitioner is posted at the place, where he was appointed.

4. A perusal of Regulation 208 of Jail Manual shows that the Jail Praharis can be transferred from one circle to other circle only in exceptional circumstances on mutual basis and with the consent of the Superintendent of two Jail Head Quarters and in such case, the Prahari will have to bear his own expenses.

5. The general policy of transfer dated 03/06/2015 does not override the provisions contained in Jail Manual. There is nothing in the policy dated 03/06/2015 to show that it has the effect of nullifying the jail manual. It is quite clear that the appointment of Praharis is made at circle level and they can be transferred only in exceptional circumstances. This kind of situation earlier arose when sub-jail at Sukma in Jagdalpur circle was temporarily closed which gave rise to exceptional circumstance, which required the petitioner to be posted outside the circle. Now the sub-jail at Sukma is being re-opened and the petitioner was required to be posted in Sub-Jail - Sukma. Therefore, in these circumstances, I do not find any ground to interfere with the transfer order. However, considering that the provisions contained in Regulation 208 of Jail Manual permits transfer on mutual basis and with the consent of the Superintendents of two Jail Head Quarters, in the ensuing transfer season, it would be open for the petitioner to move such application on his own request and if such application is moved, the same shall be considered by the authorities in terms of provisions contained in Regulation 208 of Jail Manual.

6. With the said observation, this petition is finally disposed off.

Sd/-
(Manindra Mohan Shrivastava)
Judge