

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 4386 of 2017

B. R. Dewangan S/o Aaskaran Dewangan Aged About 59 Years R/o
Housing Board Colony, Hizg-7, Dhamtari, Police Station And Post Dhamtari,
District Dhamtari, Chhattisgarh.

---- Petitioner

Versus

State Of Chhattisgarh Through Secretary, Water Resources Department,
Mahanadi Bhawan, Mantralaya, Capital Complex, Naya Raipur, District
Raipur, Chhattisgarh.

---- Respondent

For Petitioner	:	Mr. Manoj Paranjpe, Advocate
For State	:	Mr. Chandresh Shrivastava, Panel Lawyer

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

01/09/2017

Heard.

1. The petitioner has filed this petition aggrieved by transfer order dated 14.08.2017 by which, the petitioner is again being transferred to scheduled area without considering him for posting in non-scheduled area as per the provision contained in clause 2.1 of policy dated 03.06.2015 relating to posting to and from scheduled area.
2. The petitioner ever since 1982 has remained posted in scheduled area. In the last transfer season, the petitioner was again transferred to a scheduled area without considering him for posting to non-scheduled area. The petitioner approached this Court and this Court had directed the respondent to consider him for posting in non-scheduled area, according to respondent's own circular dated 03.06.2015. After that order was passed, an order was issued on 11.04.2017 allowing the petitioner to continue to remain posted at the same place. This was not the spirit of the order. This Court had directed that he should have to be considered for posting outside the scheduled area to any other station in the State.

3. By the impugned order, the petitioner is again being sent to a scheduled area for posting. The most glaring aspect of the case is that the petitioner has remained posted in scheduled area ever since 1982. Therefore, this ought to be a reason for the respondent not to again send the petitioner to a scheduled area without considering his posting in non scheduled area taking into consideration that there are large number of places where the petitioner could be posted anywhere in the State, not being a scheduled area.
4. It appears that the policy of considering cases of an officer for posting to non scheduled area, after they have worked in the scheduled area, is being observed more in breach rather than due and fair consideration which cannot be countenanced.
5. The petitioner has by now, completed 5 years of posting at Gariyaband. Therefore, his transfer outside Gariyaband has become an administrative exigency but again transferring him to scheduled area without considering him for posting to non scheduled area, does not appear to be proper.
6. Let fresh decision be taken in the case of the petitioner by the Committee constituted to consider representation, under transfer policy dated 11.07.2017. This Court though not contemplating that the petitioner should continue at the present place, nevertheless, the petitioner should be considered for posting anywhere in the State, which is not a scheduled area. Within a period of six weeks from production of the copy of this order along with fresh representation, the transfer committee shall take appropriate decision keeping in view the spirit of the observation made by this Court. Till appropriate decision is taken, no coercive steps shall be taken against the petitioner to compel him to proceed on transfer under the impugned order.
7. The petition is accordingly disposed off.

Sd/-

(Manindra Mohan Shrivastava)
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