NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 4603 of 2017

J.K.Jain S/o Shri Gulab Chand Jain, Aged About 59 Years Presently Posted In Current Charge As Assistant Engineer, In The Office Of Superintendent Engineer, Public Health Engineering Department, Circle Bilaspur, District Bilaspur, R/o Laxmi Nivas, Kalas Awasiya Parisar, Koni Road Sarkanda Bilaspur, District Bilaspur, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary Public Health Engineering Department, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur, Chhattisgarh
2. Under Secretary, Public Health Engineering Department, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur, Chhattisgarh
3. Engineer In Chief, Public Health Engineering Indrawati Bhawan, Naya Raipur, District Raipur, Chhattisgarh
4. Superintendent Engineer, Public Health Engineering Department, Circle Bilaspur, District Bilaspur, Chhattisgarh
5. R.N.Sharma Sub Engineer, In The Office Of Assistant Engineer, Public Health Engineering Sub-Division Narayanpur, District Narayanpur, Chhattisgarh

---- Respondents

For Petitioner : Shri Mateen Siddiqui, Advocate
For State : Shri S.P. Kale, Dy. A.G.

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

14/09/2017

Heard.

1. The transfer order is under challenge on the following grounds:

(A) that the petitioner is a Sub Engineer and is holding current charge of the office of Assistant Engineer on the basis of seniority but now he is being posted as Sub Engineer and an officer junior to him is being given current

charge of the office of Assistant Engineer.

(B) that the petitioner has completed 55 years of service, therefore, as far as possible, posting of such an employee in core scheduled area is to be avoided as provided in clause 1.5 of the circular dated 3.6.2015.

(C) that the petitioner is a heart patient.

(D) that the petitioner is willing to apply for VRS.

2. The issue whether a person could be given current charge of higher post bypassing senior on the basis of any overriding administrative consideration is required to be decided with reference to circulars dated 4.8.2011, 16.5.2012, 7.2.2013 and 14.7.2017 because the petitioner is a senior employee. Moreover, there appears to be another ground of consideration that the petitioner is more than 55 years of age. Therefore, this aspect would also require consideration. The other two grounds are completely a matter for administrative consideration and nor for the Court.
3. In the result, at this stage, the petition is disposed off. It is directed that If the petitioner prefers a representation within a period of 2 weeks, the same shall be considered and decided by the authority on the aforesaid issue within a period of 4 weeks and for a period of six weeks, the petitioner shall be allowed to hold the current charge of office of Assistant Engineer.
4. The petition is accordingly finally disposed off.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Praveen