

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No.5581 of 2016**

- Dr. Anjani Kumar Pandey S/o Shri Ram Bhuwan Pandey, Aged About 55 Years
Occupation- Assistant Veterinary Surgeon, Govt. Poultry Farm, Baikunthpur,
District Koriya, (Chhattisgarh)

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, Department Of Animal Husbandry & Veterinary Services, Mahanadi Bhavan, Mantralaya, New Raipur, District Raipur, (Chhattisgarh)
2. The Under Secretary, Department Of Animal Husbandry & Veterinary Services, Mahanadi Bhavan, Mantralaya, New Raipur, District Raipur, (Chhattisgarh)
3. The Director, Directorate Of Veterinary Services, Infront Of Guru Tej Bahadur Garden, G.E. Road, Raipur, (Chhattisgarh)

---- Respondents

For Petitioner	:	Shri Parag Kotecha, Advocate
For Respondent/State	:	Shri Satish Gupta, GA

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****23/02/2017**

This petition has been filed by the petitioner aggrieved by order dated 12-09-2016, by which, representation of the petitioner for consideration of his case for transfer outside the scheduled area, has been rejected.

2. Submission of learned counsel for the petitioner is that the petitioner had remained posted in the scheduled area for the last 25 years. According to him, the State Government's Transfer Policy dated 03-06-2015 in its clause 2.1 clearly provides that in case, the officer have remain posted in the core scheduled area or general scheduled area for three years and taking into consideration the services rendered by them in those areas, they may be considered for posting to non-scheduled area. However, while transferring the petitioner from one scheduled area to another

scheduled area, the aforesaid clause of State Government's transfer policy was not taken into consideration, even though, the petitioner is working in the scheduled area for last 25 years and the respondent authority has rejected the representation of the petitioner mechanically.

3. The Division Bench of this Court in the case of ***Chonhas Toppo vs. State of Chhattisgarh and others, (Writ Appeal No.549 of 2016, decided on 14-12-2016)***, have considered the aforesaid aspect and it was held, as below:-

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 posted 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."

4. The State has come out with the reply that it was in the exigency of service that the petitioner was transferred.

5. This Court earlier vide order dated 06-01-2017 had directed the State counsel to file an affidavit of the competent authority clearly stating as to how many Assistant Veterinary Surgeons of the rank of the petitioner have remained posted in Raipur, Bilaspur, Durg and Rajnandgaon District, who have not been sent to serve in tribal areas of Bastar, Ambikapur and Jashpur in the last 10 years.

In compliance of the Courts direction, the respondent has filed an affidavit and place before the Court a list of officers who have remained posted in soft stations without being sent to serve in tribal areas for the last 10 years. The list submitted

before the Court contains the name of as many as 164 officers.

6. The situation, as disclosed to this Court, speaks volume of the manner, in which, the transfers are being made. Once there is a policy dated 03-06-2015 regarding transfer of officers from soft to hard stations in a periodical manner, there is no reason as to why the petitioner had again been transferred to hard station. This is what has been held by the Division Bench of this Court in the case of ***Chonhas Toppo*** (supra).

7. In view of above, the impugned transfer order dated 25-07-2016 of the petitioner is hereby quashed. The respondent authority is directed to consider posting of the petitioner outside the scheduled area, as provided in clause 2.1 of the transfer policy dated 03-06-2015, because the petitioner has served in the scheduled area for the last 25 years and decision shall be taken in the matter.

SD/-
(**Manindra Mohan Shrivastava**)
Judge