

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 133 of 2017

Shiv Shankar Pandey S/o Shri Bharat Lal Pandey, Aged About 40 Years R/o Ward No.6, B.D. Mahant Nagar, Janjgir, Police Station And Tahsil Janjgir, District Janjgir Champa, (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through Its Secretary, Department Of Social Welfare, Secretariat, Mahanadi Bhawan, New Raipur, P.S. And Post Rakhi, District Raipur, (Chhattisgarh)
2. Collector, Office Of Collectorate, Jashpur, District Jashpur, (Chhattisgarh)
3. Deputy Director, Office Of Deputy Director, Social Welfare Department, Jashpur, District Jashpur (Chhattisgarh)
4. Superintendent, Office Of The Superintendent, Government Visually Impairment School, Jashpur, District Jashpur, (Chhattisgarh)

---- Respondents

Shri Abhishek Pandey, counsel for the petitioner/s.
Shri D.R.Minj, Dy.G.A. for the State.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

13/01/2017

Heard on admission.

1. The petitioner has filed this petition on the grievance that though the transfer order has been issued on 27/06/2016, he is not being relieved. He submits that the present policy dated 11/06/2016 does not prohibit relieving on the ground that reliever has not come because it is not a case of transfer from scheduled area to non-scheduled area but transfer from scheduled area to scheduled area only.
2. On the other hand, learned State counsel submits that the petitioner is posted at a sensitive place in core scheduled area and if the reliever of the petitioner has not come, relieving of the petitioner may adversely affect the administrative exigency.

3. At the first place, the policy which requires that the Government servant of scheduled area shall not be relieved till reliever has not joined, is applicable only in the case where the transfer is from the scheduled area to a non scheduled area as clearly provided in clause 2.6 of policy dated 11.06.2016.

4. The issue regarding implementation of transfer order, has been considered by this Court in the case of **Ms. Manisha Agrawal Vs. State of Chhattisgarh and Others, 2015(4) C.G.L.J.182**, wherein relying upon several judgments of the Supreme Court, it has been held by this Court that once the employee has been transferred, it is required to be complied with unless it is modified, varied or cancelled.

5. Therefore, in these circumstances, either the transfer order has to be implemented or the State has the option to cancel, vary or modify or keep in abeyance.

6. Accordingly, this petition is disposed off with the direction that if the transfer order of the petitioner is not cancelled, varied or kept in abeyance by the respondent-Transferring Authority, the petitioner would be required to be relieved towards implementation, execution of the transfer order.

It is made clear that this order shall not be used by the controlling authority to enter into any kind of communication with the Government seeking cancellation, variation or modification of the transfer order. This order only stipulates that till the date of passing of this order, if the Government has not cancelled, varied or modified the transfer order i.e. on or before 13/01/2017, the petitioner will have to be relieved forthwith.

Sd/-

(Manindra Mohan Shrivastava)
Judge