

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 282 of 2017

- Basant Kumar Kosaria S/o Pardesi Ram Kosaria, Aged About 43 Years Assistant Veterinary Field Officer, Post At Veterinary Hospital, Chirmiri, Distt. Koriya, R/o Chirmiri, Distt Koriya, (Chhattisgarh)

---- Petitioner

Versus

1. The State Of Chhattisgarh Through Its Secretary, Animal Husbandry Department, Mahanadi Bhawan, Naya Raipur, Distt. Raipur, (Chhattisgarh)
2. Director, Animal Husbandry Department, Indravati Bhawan, Naya Raipur, Distt. Raipur, (Chhattisgarh)
3. Deputy Director, Animal Husbandary Department, At Baikunthpur, Distt. Koriya, (Chhattisgarh)
4. Veterinary Assistant Surgeon, Veterinary Hospital, Chirmiri, District Koria, (Chhattisgarh)

---- Respondents

For Petitioner	:	Shri Parag Kotecha, Advocate
For Respondent/State	:	Shri R.K. Gupta, Dy. Advocate General

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

08/03/2017

1. Heard.
2. Petitioner has been filed by the petition aggrieved by impugned order dated 19/12/2016, by which representation for consideration of his case for transfer outside of scheduled area, has been rejected.
3. Submission of learned counsel for the petitioner is that the petitiioenr had remained posted in the scheduled area for last about 21 years. According to him the State Government Transfer Policy dated 03-06-2015 in its clause 2.1 clearly provides that in case, the officer has 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 aforestated clause of State Government's transfer policy was not taken into consideration, even though, the petitioner is working in the scheduled area for last 21 years and the respondent authority has rejected the representation of the petitioner mechanically. Learned counsel for the petitioner further submits that when this Court had earlier disposed of the petition to consider representation, the matter was placed before the Committee of Secretaries which also proposed to transfer of the petitioner to non-scheduled area yet, the impugned order has been passed contrary to the recommendation made by the Committee on a incorrect premise that the transfer policy has not been violated.

4. 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. 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, without satisfying this Court why petitioner's case was considered in terms of policy to consider posting outside the scheduled area.
5. In view of above, the impugned transfer order dated 30/07/2016 and subsequent order dated 19/12/2016 are hereby quashed. The respondent authority is directed that within two months from today, appropriate order shall be passed for posting of the petitioner in the non-scheduled area and till such order is passed, the petitioner shall allowed to work at the present place of posting.

Sd/-
(Manindra Mohan Shrivastava)
Judge