

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 317 of 2017

Anita Kanwar W/o Shri Ramkumar Kanwar, Aged About 30 Years Presently Posted As Patwari At P H N. 14, Mehendi Tahsil Pamgarh District Janjgir Champa; R/o Village Ward No. 17, Janjgir, P S & Tahsil Janjgir District Janjgir Champa (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Revenue & Disaster Management Department, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur (Chhattisgarh)
2. The Collector (Land Record), District Janjgir Champa (Chhattisgarh)
3. Sub Divisional Officer (Revenue), Pamgarh, District Janjgir Champa (Chhattisgarh)

---- Respondents

Shri Mateen Siddiqui and Shri Ishan Verma, counsel for the petitioner/s.
Shri Satish Gupta, Govt. Advocate for the State.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

09/03/2017

The petitioner has assailed legality and validity of order dated 02/08/2016 as also another order dated 21/12/2016.

By order dated 02/08/2016, the petitioner has been transferred on his own request from Patwari Halka No.4, Tahsil- Nawagarh to Patwari Halka No.14, Tahsil – Pamgarh. The challenge to this order is on the ground that the petitioner had applied for her transfer on her own request from Tahsil- Nawagarh to Tahsil – Janjgir but she has been transferred to Pamgarh which is the place, other than the place of her request. Therefore, it could not be a case of transfer on her own request. Second submission of learned counsel for the petitioner is that the petitioner has been attached in the office of Tahsildar for certain works vide order dated 21/12/2016 which amounts to attachment, which is not permissible in view

of the Government circular dated 04/06/2001.

2. Learned State counsel submits that since the petitioner herself wanted her transfer outside Nawagarh, therefore, she has been transferred and merely because she has been transferred to Pamgarh instead of Janjgir, she cannot raise any grievance. On the other aspect, learned State counsel submits that the duty and functions of a Patwari are governed by Section 104 read with Rules framed under the Land Revenue Code. Such type of work can always be entrusted to a Patwari under the said rule. Therefore, the petitioner cannot raise any grievance regarding Government circular against attachment which are meant to deal with the cases other than those which are not covered under the rules.

3. In so far as first ground is concerned, it is clear that the petitioner had applied for transfer on her own request from Nawagarh to Janjgir. However, the petitioner was not transferred to Janjgir, instead, she has been transferred to Pamgarh. Therefore, it cannot be treated as transfer on her own request though she could be transferred on administrative exigency.

4. As far as challenge to order dated 21/12/2016 is concerned, it is relevant to refer to the relevant provisions contained in the Land Revenue Code and the rules made therein.

Section 104 of the Land Revenue Code read with Rules made under that provision regarding duties of Patwaris, it is quite clear that the Collector or such authorities, as authorised by the Government, which includes Sub-Divisional Officer, can direct the Patwari to perform any of the duties as mentioned in Rule 22, 22 and 32 of the said rules which includes preparation of various records, survey, field inspection, statements, returns by attending the office of the Tahsildar. Therefore, the petitioner cannot claim that by virtue of circular of the year 2001, she cannot be asked to work in the office of Tahsildar. Rule 14 and other provisions clearly indicate that at times, Patwari can be asked to work even in the office of Tahsildar. Therefore, second ground is not made out.

5. In the result, in so far as the first ground is concerned, the petitioner has to succeed. During the pendency of this petition, the petitioner has already executed transfer order and working in Pamgarh though due to impugned order passed against order dated 21/12/2016, she is now working in the office of Tahsildar.

In view of above, the respondents shall either amend the order of transfer

dated 02/08/2016, in case, transfer of the petitioner has been considered to be on administrative exigency or withdraw the same, if the only operative reason for transfer of the petitioner was her request.

6. If no orders are passed within 30 days from the date of receipt of copy of this order by the Collector, District – Janjgir, the impugned order, in respect of the petitioner, shall be treated to be of no effect and she may join and work at the earlier place of posting at Tahsil – Nawagarh in Patwari Halka No.4.

7. With the aforesaid observations / directions, the petition is finally disposed off.

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