NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 4491 of 2017

Dinesh Kumar Tamboli S/o Babulal Tamboli, Aged About 33 Years Occupation Service, Presently Working As Sub Engineer In Rural Engineering Service, Posted At Janpad Panchayat Lailunga, District Raigarh, R/o Block Colony, Near Janpad Panchayat Office, Lailunga, District Raigarh (C.G).

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Department Of Panchayat And Rural Development, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur, Chhattisgarh.
2. Development Commissioner, Rural Engineering Services, Civil Lines, Raipur, Chhattisgarh.
3. Janpad Panchayat Lailunga, District Raigarh Through Its Chief Executive Officer, Janpad Panchayat Lailunga, District Raigarh, Chhattisgarh.
4. Rakesh Kumar Patel, Sub Engineer In Rural Engineering Service, Posted At Janpad Panchayat Duldula, District Jashpur, Chhattsgarh.

---Respondents

For Petitioner : Shri Malay Shrivastava, Advocate
For Respondent/State : Ms.M.Asha, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy
Order on Board

11/09/2017

1. The challenge in the present Writ Petition is to the Annexure-P1 dated 14/08/2017 whereby the petitioner was working as Sub-Engineer under the respondents have been posted from Raigarh to Kondagaon.

2. The challenge to the transfer order is on the ground that, the petitioner since the time of his appointment i.e. from the year 2013 has been discharging his duties at a schedule area and that after 3 years he should have been posted at a non-schedule area or atleast to nearby places where there was vacant post available.

3. He further submits that, the order of appointment itself was on the condition that, the initial posting shall be in a schedule area which he has completed and therefore for all practical purposes after his tenure at a schedule area, he should have been given a non-schedule area.

4. The State counsel however opposing the same submits that, the guidelines framed so far as appointment being made at the schedule area cannot be taken as the guidelines which should be considered as after the initial tenure at schedule area, employee would have been posted in a non-schedule area.

5. Having considered the rival contentions put forth on either side and on considering the fact that, the petitioner at the present place of posting has already put in about 4 years of service and that order of transfer is on administrative exigency and that same has been passed along with the transfer order pertaining to 101 other employees of the same department and therefore it cannot be presumed to have been passed only to victimize the petitioner or have been issue with malafied intention. So far as transfer is concerned, the law in this field by now is well settled by a catena of decisions wherein it has been held that, it is always prerogative of the employer to decide the place of posting.

6. The only remedy available to the petitioner in the event if he faces any inconvenience is to make representation to the respondents for redressal of the same, the petitioner in the instant case has made representation in this regard on 17/08/2017.

7. In view of the settled position of law, this court is not inclined to interfere with the impugned order and the petition thus deserves to be and is accordingly rejected.

8. Further, since the petitioner has already made a representation to the State Government, it is left for the State Government to take appropriate decision on the said representation so made by the petitioner as expeditiously as possible.

Sd/-
(P. Sam Koshy)
Judge

Sumit