

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 919 of 2018

Smt. Pratibha Shukla W/o Shri Jitendra Shukla Aged About 40 Years Working As Teacher (Panchayat) At Government Middle School Padariya (Takhatpur) District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary Department Of Panchayat Mahanadi Bhawan Mantralaya New Raipur District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
2. Chief Executive Officer, Zila Panchayat Bilaspur District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Respondents

For Petitioner	:	Shri Ajay Shrivastava, Advocate
For State	:	Shri Chandresh Shrivastava, Panel Lawyer
For Respondent No.2	:	Shri Y.S.Thakur, Advocate

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

10/05/2018

This petition has been filed by the petitioner against order dated 05/12/2017 passed by the Commissioner in appeal whereby the appeal has been dismissed in the matter of posting and transfer of the petitioner.

2. The petitioner was posted as Sanskrit Teacher on 14/07/2008 in Government Middle School, Pandariya, Tahsil - Takhatpur, District – Bilaspur. By impugned order, the petitioner has been transferred.

3. Learned counsel for the petitioner would submit that the transfer is against provisions of rationalisation policy because as per circular dated 11/07/2014 of the Government of Chhattisgarh (School Education Department), those teachers who have obtained Post Graduation in English, Sanskrit, Maths, Science (Biology, Physics, Chemistry), they will not be treated as surplus. It is submitted that Jila Panchayat has issued a direction with reference to rationalisation vide order dated 14/07/2017, in which, it has been provided in Clause 11, the same provision as contained in the State circular. The petitioner is Post Graduate in Sanskrit, therefore,

she could not be at all treated as surplus. It is further submitted that another teacher, who was posted after the petitioner on 25/08/2010, namely Manoj Pawar ought to be treated as surplus according to the rationalisation policy. Therefore, viewed from any angle, the petitioner was treated as surplus and transferred. This aspect was not considered by the authorities in its proper perspective as per Government circular.

4. On the other hand, learned State counsel submits that the transfers are made on administrative exigencies. He would submit that the case of the petitioner was duly considered by applying rationalisation policy and it was found that one Jyoti Pal was posted in the same school vide order dated 25/06/2005 and Ikleshwari Yogi though was posted on 16/09/2010, she was differently abled and therefore could not be treated as surplus.

5. As per clause 2 of the State circular dated 14/07/2017, a Post Graduate in English, Sanskrit, Maths, Science (Physics, Chemistry, Biology) is not to be treated as surplus. Moreover, this Court finds that another teacher of Arts namely Manoj Pawar joined the school on 25/08/2010 i.e. he has joined subsequent to the petitioner. According to rationalisation policy, one who joined later is treated to be surplus. Therefore, the impugned order passed in appeal and transfer order in respect of the petitioner is quashed.

Sd/-
(Manindra Mohan Shrivastava)
Judge