

HIGH COURT OF CHHATTISGARH, BILASPUR

WA No. 136 of 2018

Hoshelal Tandon S/o Heerala Tandon Aged About 54 Years R/o Om Nagar Jarhabhata Bilaspur, Near Anantkaruna H. Sec. School Bilaspur, Presently Posted And Working As Upper Division Teacher At Middle School Devargao, Block, Tahsil Gaurella, District Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh

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Versus

1. State Of Chhattisgarh Through Secretary School Education Department Mahanadi Bhawan, Mantralaya, New Raipur, P.S. Rakhi Tahsil, District Raipur, Chhattisgarh, District : Raipur, Chhattisgarh
2. Director, Directorate Public Instruction, Director, Office Of The Directorate Public Instruction Indravati Bhawan, New Raipur, Chhattisgarh, District : Raipur, Chhattisgarh
3. District Education Officer Bilaspur, Office Of The District Education Officer Bilaspur, Tahsil, District Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh
4. Collector, Bilaspur, Office Of The Collector Bilaspur, Tahsil, District Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh
5. Principal, Principal Of The Adarsh Anusuchit Jati Kanya Ashram, Devri Khurd, Block Bilha, Tahsil, District Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh
6. Principal, Principal Of The Middle School Devargao, Block, Tahsil Gaurella, District Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh
7. Smt. Swati Tigga, Assistant Teacher (Block Marwahi) Presently Posted At The Adarsh Anusuchit Jati Kanya Ashram, Devri Khurd, Block Bilha, Tahsil, District Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh
8. Smt. Sheela Meshram, Assistant Teacher (Block Kota) Presently Posted At The Adarsh Anusuchit Jati Kanya Ashram, Devri Khurd, Block Bilha, Tahsil, District Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh
9. Smt. Panch Kumari Bhaskar, Assistant Teacher, (Block Takhatpur) Presently Posted At The Adarsh Anusuchit Jati Kanya Ashram Devri Khurd, Block Bilha,

Tahsil, District Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh

- 10.Smt. Geeta Bodra, Teacher Panchayat (Block Marwahi) Presently Posted At The Adarsh Anusuchit Jati Kanya Ashram, Devri Khurd, Block Bilha, Tahsil, District Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh
- 11.Smt. Ragini Jha, Lecturer (Block Gorela) Presently Posted At The Adarsh Anusuchit Jati Kanya Ashram, Devri Khurd, Block Bilha, Tahsil, District Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh
- 12.Kumari Raisha Bano, U.D.T. (Block Marwahi) Presently Posted At The Adarsh Anusuchit Jati Kanya Ashram, Devri Khurd, Block Bilha, Tahsil, District Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh

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For Appellant	:	Shri Vijay K. Deshmukh, Advocate
For State	:	Shri UNS Deo, Govt. Advocate

**D.B. Hon'ble Shri Justice Manindra Mohan Shrivastava &
Hon'ble Shri Justice Sharad Kumar Gupta**

Order On Board

20/03/2018

Heard.

1. This writ appeal arises out of order dated 12th February 2018 passed in WPS No.1365 of 2018.
2. Learned counsel for the appellant would submit that the appellant was earlier posted in an Ashramshala at Bagdeva which was closed and thereafter the appellant was transferred to another school at Devargaon which is stated to be 130 k.m. away. The appellant, thereafter, made a representation for his posting at a nearer place, on which the Director, Public Instructions, directed the District Education Officer, Bilaspur to consider appellant's representation. On 20.3.2017, the District Education Officer, Bilaspur passed an order and posted the appellant in school at Deverikhurd but the appellant was not allowed to join despite

representations and direction issued by the Government which ultimately led to filing of writ petition. The writ petition, however, has been dismissed on the ground that in school where the petitioner/appellant is sought to be posted, there are as many as 9 Teachers already working against 4 sanctioned posts.

Learned counsel for the appellant would further submit that respondents No. 7 to 12 are those Teachers who have been posted as in attached position in that school during the period when the appellant was not being allowed to join. He would submit that if it is permissible to attach the Teachers more than the sanctioned posts, then the appellant's case also was required to be considered and the appellant is entitled to be posted in attachment in that school.

3. Learned counsel for the State would submit that the appellant has been posted by the District Education Officer in an Institution where number of Upper Division Teachers more than the sanctioned posts are already working.
4. It appears that the present situation has arisen on account of posting orders issued by the District Education Officer on the direction of the Director, Public Instructions and the State Government, the purpose of which appears to be only adjustment of Teachers at favourite places in excess of sanctioned vacancy. This Court is shocked to see that in school at Deverikhurd, there are only 4 sanctioned posts of Upper Division Teachers and as against them, as many as 5 Teachers have been accommodated which also includes the appellant.
5. The appellant has placed on record in the writ petition, the memo dated 3.1.2017 of the District Education Officer addressed to the Director Public Instructions which shows that at that point of time, as against 4 sanctioned posts of Upper Division Teachers, 4 other Upper Division Teachers were attached in that school. Looking to the strength of students as indicated in

Annexure P-9 (filed in the writ petition) we are not inclined to interfere with the order passed by learned Single Judge. In the matter of transfer and posting, which are only incidents of services, unless the order are actuated by malafide or illegality, no protection can be granted. The appellant seeks enforcement of a direction issued by the District Education Officer for attachment in an Institution where there are already number of Teachers working, which far exceeds the sanctioned posts.

6. We are concerned to note that other Teachers which included respondents No. 7 to 12 have also been attached in excess of sanctioned posts. The entire situation is required to be reviewed by the District Education Officer. However, no relief can be granted to the appellant.
7. The writ appeal is accordingly dismissed.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Sharad Kumar Gupta)
Judge