

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No.2225 of 2018**

- Mahesh Prasad Sharma S/o Shri Beni Prasad Sharma Aged About 56 Years
Occupation - Assistant Grade - 2 , At Janpad Panchayat Chhura , R/o Village
Panchayat Chhura , Tahsil Chhura , District Gariyaband Chhattisgarh., District :
Gariyabandh, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary Panchayat And Raural
Development Department Maha Nadi Bhawan Naya Mantralya District Raipur
Chhattisgarh., District : Raipur, Chhattisgarh
2. The Commissioner, Panchayat And Rural Development Department Indrawati
Bhawan Naya Mantralya District Raipur Chhattisgarh., District : Raipur,
Chhattisgarh
3. The Collector , District Gariyaband Chhattisgarh., District : Gariyabandh,
Chhattisgarh
4. The Chief Executive Officer Zila Panchayat Gariyaband District Gariyaband
Chhattisgarh., District : Gariyabandh, Chhattisgarh
5. The Chief Executive Officer , Janpad Panchayat Chhura District Gariyaband
Chhattisgarh., District : Gariyabandh, Chhattisgarh
6. The Chief Executive Officer , Janpad Panchayat Devbhog District Gariyaband
Chhattisgarh., District : Janjgir-Champa, Chhattisgarh

--- Respondents

For Petitioner : Shri J. N. Nande, Advocate
 For Respondent/State: Shri Manish Nigam, Panel Lawyer
 For Respondent No.4: Shri Sanjay Patel, counsel appears on behalf of Shri R.
 S. Baghel, counsel

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****16/05/2018**

Heard.

2. Impugned order dated 27-06-2017, by which, the petitioner was
transferred from one Janpad Panchayat to other Janpad Panchayat, is

challenged on the ground of lack of jurisdiction and authority under the law.

3. This Court granted opportunity to respondent No.4-Zila Panchayat, Gariyaband to satisfy the Court as to under what authority of law, he has been exercising the power of attachment/transfer of Accountant, who is an employee of Janpad Panchayat. The return of respondent No.4 in this regard is silent and attempt has been made to justify the exercise of power, which respondent No.4 does not possess under the law. The provision contained in Rule 27 of the Chhattisgarh Panchayat Service (Recruitment and General Conditions of Services) Rules, 1999, (In short “the Rules of 1999”) reads as under:-

“27. Appointment of Panchayat employee to and his Panchayat.—

Notwithstanding anything contained in these rules, the appointing authority on application made by any employee of Panchayat Service of other Panchayat, may appoint such employee to a same or equivalent post in the Panchayat service on such terms and conditions as may be mutually agreed upon between the two Panchayats, and subject to the following conditions, namely:--

- (i) Such appointment shall not be made to post to be filled by promotion
- (ii) The person so appointed shall receive the junior most rank, for the purpose of seniority, in the cadre of the post to which he is appointed, as it stands on the date of such appointment.

4. In the absence of there being any power conferred on the Chief Executive Officer, Zila Panchayat to transfer/attach any employee of Janpad Panchayat, except in the manner as provided in Rule 27 of the Rules of 1999, the impugned order passed by the Chief Executive Officer, Zila Panchayat is liable to be declared ab initio void.

5. In view of above, the impugned order passed by the Chief Executive Officer, Zila Panchayat is set aside. The petitioner will be posted to his parent Janpad Panchayat. Salary for the period, during which, the petitioner has

remained posted in other places, under the impugned order, if not already paid, shall be liable to be paid to the petitioner.

6. Accordingly, the petition is allowed.

SD/-
(**Manindra Mohan Shrivastava**)
J U D G E