

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 7011 of 2017

Arjun Singh Patel S/o Late Shivchand Prasad Patel, Aged About 61 Years
Presently Posted As Range Officer, Pendra Range, Forest Division Marwahi
Pendraroad, District Bilaspur, Chhattisgarh. , Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary Department Of Forest, Manatralaya, Mahanadi Bhawan, Naya Raipur, District Raipur, Chhattisgrh, Chhattisgarh
2. Under Secretary, Department Of Forest Manaralaya Mahanadi Bhawan, Naya Raipur, District Raipur, Chhattisgarh, District : Raipur, Chhattisgarh
3. Chief Conservator Of Forest, Bilaspur, Circle Bilaspur, District Bilspur, Chhattisgarh, District : Bilaspur, Chhattisgarh
4. Divisional Forest Officer, Forest Divison Marwahi Pendraroad District Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh
5. Shri Rajkumar Pandey, S/o Late Y.P. Pandey, Aged About 61 Years Presently Working At Forest Range Officer, Pendra Range, Marwahi Vanmandal, District Bilaspur, Chhattisgarh. Q, District : Bilaspur, Chhattisgarh

---- Respondents

Shri Yogendra Chaturvedi, counsel for the petitioner/s.
Shri Majid Ali, Dy.G.A. for the State / respondents 1 to 4.
Shri Rakesh Jha, counsel for respondent No.5.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

07/02/2018

In this case, the State has not filed return till date. Respondent No.5, however, has submitted his return.

2. The petitioner is aggrieved by action of the official respondents by which, he is not being allowed to continue at Marwahi / Pendra and directed to hand over charge to respondent No.5.

3. Learned counsel for the petitioner would argue that in compliance of the transfer

order dated 14/08/2017, the petitioner was transferred from Lormi to Marwahi / Pendra and he has submitted his joining on 18/09/2017.

In the meantime, respondent No.5, who had approached this Court by filing a petition against his transfer from Marwahi / Pendra to Balod, was required to continue at the present place until decision of his representation. The petitioner is aggrieved because there is no order regarding the petitioner, though transfer of respondent No.5 has been cancelled. According to learned counsel for the petitioner, as he had already joined, he is also being paid salary and if he is asked to hand over charge to respondent No.5, he would not know where he has to work.

4. The facts before this Court and various documents and orders passed in the matter from time to time by this Court as also by the State authorities reveal that by order dated 14/08/2017, the petitioner – Arjun Singh Patel was transferred from Lormi to Marwahi / Pendra and respondent No.5 was transferred from Marwahi / Pendra to Balod.

Respondent No.5 filed a petition before this Court in WPS No.4143/2017 raising grievance that as he has very short period left for retirement, he ought not be transferred. This grievance was taken into consideration and the petition filed by respondent No.5 (Shri Rajkumar Pandey) was disposed off vide order dated 30/08/2017 with a direction to consider his representation. In compliance of the Court's order, representation of respondent No.5 was considered by the transfer committee of the State and finally an order was passed on 15/11/2017 cancelling transfer of respondent No.5 (Rajkumar Pandey) allowing him to continue at Marwahi / Pendra. In the meantime, the petitioner had already joined, so complications arose. Respondent No.5 again filed a petition before this Court raising grievance that he is not being allowed to work despite the fact that the Government has passed an order on 25/09/2017 allowing him to continue. Though the writ petition i.e. WPS No.6123/2017 was again disposed off vide order dated 17/11/2017 with the observation that the Divisional Forest Officer, Forest Division, Marwahi would be under an obligation to allow Rajkumar Pandey to continue and if any other officer has joined at his place of posting, the Divisional Forest Officer is required to make alternative arrangement.

5. With all these background and the orders passed by this Court and the authorities, the impugned order has been passed, by which, the petitioner has been required to hand over charge to respondent No.5 / Rajkumar Pandey.

6. It is not in dispute that earlier two orders passed by this Court in WPS No.4143/2017 and WPS No.6123/2017 were not challenged by the present petitioner in

any separate proceedings.

The order dated 15/11/2017 passed in favour of respondent No.5 by which his transfer was cancelled and he was allowed to continue at Marwahi / Pendra is also not under challenge.

7. Respondent No.5 has been allowed to continue at Marwahi / Pendra under judicial direction which has attained finality. Therefore, in these circumstances, official respondents ought to have made some alternative arrangement for the petitioner to post him at any other place by issuing specific order in favour of the petitioner. Under the present situation, the petitioner has only been asked to hand over charge but he does not know, where he has to go. Infact, while cancelling the transfer order of respondent No.5, a corresponding fresh order of transfer of the petitioner ought to have been issued, which has not been done.

For this situation, even the petitioner cannot be held responsible because he had complied with the order dated 14/08/2017 and joined at Marwahi / Pendra on 18/09/2017.

8. This complexity can be resolved by passing appropriate posting order of the petitioner at a place other than Marwahi / Pendra. The State shall do well and now pass a fresh order of transfer of the petitioner to any other place at the earliest. Till that order is passed, appropriate interim arrangement shall be made to ensure that salary of the petitioner continues to be paid. Since the posting order of the petitioner is required to be passed on the basis of judicial order which has now been passed, process of coordination would not be necessary to be followed. Let the concerned department pass fresh order within three weeks from the date of receipt of copy of this order.

9. With the aforesaid observation, this petition is finally disposed off.

Sd/-
(Manindra Mohan Shrivastava)
Judge