

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 4212 of 2017

Ranveer Singh Narvaria S/o Shri Ahiram Singh Narvaria Aged About 57 Years
R/o Government Nursery Lalpur, P. O. Lalpur, Pendra- Road, District Bilaspur,
Chhattisgarh. , Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Agriculture And Bio Tehnology,
Department Mantralaya, Mahaanadi Bhawan, Naya Raipur- 492002,
Chhattisgarh., Chhattisgarh
2. Director, Horticulture And Farm Foretry 4th Floor, Block -2, H O D Building,
Indrawati Bhavan, Naya Raipur, Chhattisgharh. 492002. , District : Raipur,
Chhattisgarh
3. Vinay Tripathi, S/o Shailendra Kumar Tripathi, Aged About 30 Years R/o
Gaurela, Tehsil Pendra Road, Gaurela, District Bilaspur, Chhattisgarh. , District :
Bilaspur, Chhattisgarh
4. Vijay Tripathi, S/o Shailendra Kumar Tripathi, Aged About 31 Years R/o Gaurela,
Tehsil Pendra Road, Gaurela, District Bilaspur, Chhattisgarh., District : Bilaspur,
Chhattisgarh

---- Respondents

Shri Kshitij Sharma, counsel for the petitioner/s.
Shri Chandres Shrivastava, Panel Lawyer for the State / respondents 1 and 2.
Shri Ravi Bhagat, counsel for respondent No.3.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

02/02/2018

This Court, looking to the controversy involved, is not inclined to issue notice to respondent No.4.

Challenge is to transfer order dated 14/08/2017 by which the petitioner has been transferred from the office of Government Nursery, Lalpur (Gaurela) to the office of Assistant Director, Horticulture, Bemetara.

2. The grounds on which the transfer order is under challenge is violation of clause 1.8 of policy dated 11/07/2017 which provides that an employee would be considered

for transfer on his own request only when he has completed two years of posting. The other ground is that respondent No.3 is posted in his home district which is contrary to the policy and that respondent No.3 is interested in posting at his home district where his other relatives are posted.

3. Learned State counsel and counsel for respondent No.3 jointly submit that there is no violation of the policy. It is further submitted that the policy dated 11/07/2017 was later on amended vide circular dated 24/07/2017 (Annexure R/20) wherein amendments were carried out in clause 1.1, 1.6 and 4.5 by which, normal tenure of posting was reduced from two years to one year. Therefore, clause 1.8 is required to be interpreted in the light of amended provision. As respondent No.3 had completed one year of posting, his prayer for transfer on his own request was duly and bonafide considered and he was posted. He would also submit that the petitioner has already remained posted at the present place for the last eight years. Therefore, he had become due for transfer. In that case, only on this ground, transfer order could not be assailed.

4. It is not in dispute that under policy dated 11/07/2017, an employee could seek transfer on his own request only upon completion of two years of posting. Though learned counsel for the State and respondent No.3 attempted to satisfy this Court that in view of the amendment in clause 1.1, 1.6 and 4.5, the provision contained in clause 1.8 should be interpreted to mean that after one year of posting, request transfer is permissible, I am not inclined to accept the submission because there is no such amendment in the said policy. Accommodation of a Government servant should only be in bonafide manner. If the accommodation is contrary to the policy and there is no extra ordinary ground to grant accommodation, having some exceptional reason, the transfer of an employee cannot be said to be bonafide. Further, it is not a case that the petitioner has been transferred to any nearby place in which event, despite violation of policy, this Court may not have interfered with the order.

5. In view of above, the impugned order is set aside in relation to the transfer of the petitioner and respondent No.3. This order shall not come in the way of the respondent authorities in transferring the petitioner to any other place considering that he has already completed eight years of posting at the present place.

6. The petition is accordingly finally disposed off.

Sd/-
(Manindra Mohan Shrivastava)
Judge

