

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 6336 of 2018**

Jose Philip S/o Late Philip Joseph, Aged About 54 Years Presently Working As District Treasury Officer, Baster, District Baster Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Finance Department, Mahanadi Bhawan, Atal Nagar, New Raipur, District Raipur Chhattisgarh.
2. Director, Directorate Treasury, Account And Pension, Department, Indrawati Bhawan, Atal Nagar, New Raipur Chhattisgarh.
3. The Collector, Baster, District Baster Chhattisgarh.
4. Shri Dheeraj Nashine, Senior Treasury Officer, Rajnandgaon, District Rajnandgaon Chhattisgarh.

----Respondents

For Petitioner	:	Mr. Somkant Verma, Advocate
For State	:	Ms. Sunita Jain, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy**Order on Board****26/09/2018**

1. The challenge in the present writ petition is to the order of transfer dated 17.09.2018, whereby the services of the petitioner has been transferred from Jagdalpur to Kondagaon.
2. The counsel for the petitioner submits that the petitioner in the instant case has already put in 32 years of continuous service in a schedule area and as per the policy of the State Government itself, the petitioner if at all should have been transferred to a non-schedule area. He further relies upon the order of Division Bench of this Court in WA No. 549/2016 (Chonhas Toppo v. State of Chhattisgarh & Ors.) decided on 14.12.2016, whereby the Division Bench in paragraphs No. 5 & 6 had made the following observations:

“5. The grievance of the Appellant is that he cannot be sent back to the Committee of the Senior Secretaries time and again. From the facts placed on record, it is more than obvious that from 1987 till now, i.e. almost for two decades, the Petitioner is serving in scheduled areas i.e. tribal areas and deemed to be difficult areas. It may be true that the Petitioner himself is a tribal but that does not mean that he has to spend his entire career in the scheduled area. He and his family members also have a hope that like other employees of the government, they will also be posted in non-scheduled areas sometimes during the period of service. The order of the Committee of Senior Secretaries is totally wrong because they have not even looked into the main grievance of the Appellant that he right from his initiation of service has been serving in scheduled areas.

6. We therefore allow this appeal and modify the order of the learned Single Judge and direct that within two months from today, the State/Respondents shall be posted in a non-scheduled area and till such order is passed, the Appellant shall be allowed to continue at Ambikapur where he is presently working.”

3. A similar view was also taken by this Court in WPS No. 6082/2017 (B.D. Kushwaha v. State of Chhattisgarh & Anr.) decided on 15.11.2017, where again relying upon the aforementioned judgment of the Division Bench of the High Court, this High Court had in paragraphs No. 6 & 7 has held as under:

“6. An order passed by the Division Bench in similar matter is binding on this Court, therefore, if the same is applied to the facts of the present case, it is manifest that the petitioner is working in the scheduled area for about 16 years, therefore, if he has any grievance against his transfer once again to another scheduled

area, the same being contrary to the observation made by this Court in Chonhas Toppo (supra) deserves to be interfered with.

7. Considering the entire facts situation of the case, instead of keeping this petition pending the same is allowed at the admission stage and the respondents are directed to pass appropriate orders, posting the petitioner to a non scheduled area and till such order is passed the petitioner shall be allowed to continue at his present place of posting.”

4. In addition to the aforesaid grounds, the petitioner has also highlighted the aspect that the wife of the petitioner has been struck with paralytic attack and is under constant treatment from the Ramkrishna Care Hospital, Raipur.
5. Given the said facts, let the petitioner make a detailed representation to the respondent No.1 within a period of two weeks from the date of receipt of certified copy of this order raising all his grievances and contentions, if any, and the respondent No.1 in turn shall thereafter consider the representation of the petitioner in the light of the aforesaid two judgments of the High Court referred to herein above and pass an appropriate order preferably within a period of 90 days from the date of receipt of the representation.
6. Meanwhile, the impugned order so far as the petitioner is concerned, shall not be given effect to.
7. With the aforesaid observations, the present writ petition stand disposed off.

Sd/-
(P. Sam Koshy)
Judge