

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 6595 of 2018

Arjun Singh Patel S/o Late Shri Shiv Chand Prasad Patel, Aged About 61 Years, Presently Posted As Range Officer, Pendra Range, Forest Division Marwahi, Pendra-Road, District Bilaspur Chhattisgarh.

---Petitioner

Versus

1. State Of Chhattisgarh, Through Secretary, Forest Department, Mantralay, Mahanadi Bhawan, Naya Raipur, District Raipur Chhattisgarh.
2. Additional Secretary, Department Of Forest, Mantralay, Mahanadi Bhawan, Naya Raipur, District Raipur Chhattisgarh.
3. Chief Conservator Of Forest, Bilaspur Circle, Bilaspur, District Bilaspur, Chhattisgarh.
4. Divisional Forest Officer, C/o Forest Division Marwahi, District Bilaspur Chhattisgarh.
5. Shri Sanjay Tripathi, Presently Posted As Forest Range Officer, Pendra Range, Marwahi Forest Division, District Bilaspur Chhattisgarh.

---Respondents

For petitioner : None.
For State : Shri Syed Majid Ali, Dy.G.A.

Hon'ble Shri Justice P. Sam Koshy
Order on Board

05/10/2018

1. The challenge in the present Writ Petition is to the order Annexure-P/1 dated 07/09/2018 whereby the respondents while rejecting the representation of the petitioner have issued an order of relieving him from the present place of posting.
2. The facts of the case in brief is that, the petitioner originally was working as a Range Officer at Pendra Range, Forest Division Marwahi. Vide order dated 14/08/2017, the petitioner was transferred from Achanakmar Tiger Reserve, Lormi to the Forest Division, Marwahi. Vide the same order, one Shri Rajkumar Pandey was also transferred from Forest Division, Marwahi to the Forest

Division, Balod. The said Rajkumar Pandey filed a Writ Petition before this High Court vide WPS No. 4143/2017 and had got an interim order on 30/08/2017. Meanwhile, the petitioner had also joined at the transferred place of posting i.e. at Forest Division, Marwahi and was posted as Range Officer, Pendra Range. The petitioner is to be retired on 30/04/2019.

3. In the light of the said order, the Rajkumar Pandey had gone to assume his charge which was refused which led to the filing of a fresh Writ Petition i.e. WPS No. 6123/2017 and which this Court disposed off on 17/11/2017 directing the authorities to ensure that the charge is given to the Rajkumar Pandey. This led to the filing of Writ Petition (S) No. 7011/2017 by the petitioner and this Court while disposing off the same on 07/02/2018 made the following observations:-

“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 not 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.”

4. Meanwhile, the petitioner had further challenged the two orders passed in the case of Rajkumar Pandey vide Writ Appeal Nos. 160/2018 and 162/2018 and the Division Bench of this Court disposed off the two appeals by making following observations:-

“2. Without expressing any opinion on the merits of the dispute in appeals now, keeping in mind that the private respondent Rajkumar Pandey is superannuating on 31/08/2018, these appeals stands disposed off with an observation that the decision of the State Government, which may have been taken allowing him to continue since he has less than one year of service, has not been passed in proper perspective and facts, if not misrepresentation of the High Court's observation in relation to the transfer specially made in WPS No. 4143/2017.”

5. What is pertinent at this juncture to take note of is the observation made by the Division Bench that was the date of retirement of the said Rajkumar Pandey who was retiring on 31/08/2018.

6. Pursuant to that, the said Rajkumar Pandey was given charge and the petitioner also continued at the same place and in due course of time on 31/08/2018, the said Rajkumar Pandey now stand superannuated. Thereafter it is only the petitioner who has been left at that place i.e. at Range Office, Pendra and the entire dispute stood redressed of its own.

7. However, in pursuance to the observations made by this Court in Writ Petition (S) No. 7011/2017 dated 07/02/2018, the respondents have now after more than 7 months and that too after the retirement of the said Rajkumar Pandey have issued the impugned order on 07/09/2018 relieving the petitioner from his present place of posting at Kodri, Forest Division, Marwahi.

8. The petitioner at this juncture challenges the impugned order on the ground that firstly since the Rajkumar Pandey had already retired, there was no occasion for now changing place of posting of

the petitioner. Moreover, the petitioner also is to retire in a very short span of time.

9. This aspect has not been taken note of by the respondents while deciding Annexure-P/1 and the entire impugned order is silent so far as the retirement of Rajkumar Pandey is concerned.

10. Given the said facts, let the petitioner at this juncture approach the authorities by making a detailed representation supported with all relevant documents within 15 days from today to the respondent No.1 who in turn shall look into the matter and reconsider whether the petitioner's place of posting does require any change or not in the light of Rajkumar Pandey having already retired with effect from 31/08/2018 onwards.

11. Till the decision is taken by the respondent No.1 on the representation so made by the petitioner, the respondents are restrained from giving effect to the impugned order Annexure-P/1.

12. The Writ Petition accordingly stands disposed off.

Sd/-

(P. Sam Koshy)
JUDGE

Sumit