

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 7491 of 2018**

Dr. Lakhan Kumar Tiwari S/o Janardan Prasad Tiwari, Aged About 54 Years, Working As Assistant Professor (Political Science), Government Badri Prasad, Arts And Commerce Collage, Arang, Raipur, District - Raipur Chhattisgarh

---- Petitioner**Versus**

- State Of Chhattisgarh Through The Secretary, Higher Education Department Mahanadi Bhawan, Mantralaya, Atal Nagar Raipur, District - Raipur Chhattisgarh

---- Respondent

For Petitioner	:	Shri H. B. Agrawal, Sr. Advocate with Ms. Mira Jaiswal, Advocate
For State	:	Shri Ratan Pusty, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****14.11.2018**

The challenge in the present writ petition is to the order of transfer dated 01.10.2018 Annexure P-8 whereby the petitioner has been transferred from Arang to Dantewada.

2. The challenge is on the ground that the petitioner's wife is already working at Raipur as a teacher and that his native place Bihar has an easy access from the present place of posting and the petitioner is required to frequently visit to attend his ailing parents who are quite old.

3. Counsel for the petitioner submits that there are a large number of

institutions in and around Raipur where there are also large number of vacancies available and therefore the respondents may consider the case of the petitioner for being accommodated in some places nearby the present place of posting. He further submits that in a similar instance in the case of Vishnu Shrivastava whose name is reflected in Annexure P-7 who was also transferred from Raipur to Dantewada has subsequently been modified and has been posted to a different college at Raipur. He submits that the respondent authorities may be directed to consider the case of the petitioner also on similar line.

4. Given the facts and circumstances of the case particularly taking into consideration the fact that so far as the judicial review in a case of transfer under service jurisprudence is concerned, the scope of interference is limited to the extent only in case the order of the transfer being issued contrary to the service condition or has been issued by an incompetent authority or in contravention to the service rules governing the petitioner. No such plea has been taken in the present case.

5. So far as the posting is concerned, it is always within the domain of the State Govt. i.e. the employer to decide when, where and for what duration an employee has to be posted at a particular place. True it is that the policy of the State Govt. is to ensure that the spouses if in employment have to be as far as possible accommodated at the same place. The petitioner has also contended that his wife is a teacher posted at Raipur.

6. Given the said fact, the only relief which can be granted is that of directing the petitioner to move an appropriate representation to the respondents in this regard within a period of 15 days from today and the respondents in turn shall take into consideration the entire facts and

circumstances of the case and pass an appropriate order at the earliest preferably within a period of 45 days from the date the petitioner files his representation. Till then let status quo as it exists today be maintained so far as the petitioner is concerned.

**Sd/-
P. Sam Koshy
Judge**

Bhola