

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 552 of 2019

- S.K. Banjare S/o Shri Parshadi Ram Banjare Aged About 32 Years, Presented Posted as ACIO- I/G (PIS No. 130319), C/o Shri M. R. Chelak, Behind Garden, Patrakar Colony, Bilaspur Tahsil And District Bilaspur Chhattisgarh

---- Petitioner

Versus

1. Union of India Through its Secretary, Ministry of Home Affairs, Government Of India, New Delhi
2. Assistant Director Subsidiary Intelligence Bureau (SIB), Ministry of Home Affairs, Intelligence Bureau, Head Quarter, New Delhi
3. Jaidip Singh Joint Director and Disciplinary Authority, Subsidiary Intelligence Bureau (SIB), Ministry of Home Affairs, Intelligence Bureau, Government of India, Raipur, Chhattisgarh
4. Assistant Director Subsidiary Intelligence Bureau (SIB), Ministry of Home Affairs, Intelligence Bureau, Government of India, Raipur, Chhattisgarh

-----Respondents

For Appellant : None.

For Respondents : None

**Hon'ble Shri PR Ramachandra Menon, Chief Justice &
Hon'ble Shri Justice Parth Prateem Sahu
Judgment on Board**

Per P.R. Ramachandra Menon, Chief Justice

12.12.2019

1. The challenge is against Annexure P-3 Order dated 10-12-2018 passed by Central Administrative Tribunal, Jabalpur Bench, Circuit Sittings, Bilaspur (for short, 'CAT') in Original Application No. 203/00883/2018, whereby the OA came to be dismissed declining interference. The applicant/ petitioner was originally appointed as Assistant Central Intelligence Officer-II (for short, 'ACIO') on 18.06.2009 and after working for nearly four years in the State of Assam, his Head Quarters was changed and he was transferred to be under Subsidiary Intelligence Bureau (SIB), Raipur in October, 2013. A posting was given

in Narayanpur district and later in the year 2015, he was transferred to Janjgir-Champa district and was given promotion as ACIO Grade-I in April, 2015.

2. It is stated that the wife of the petitioner was working as Shiksha Karmi in a Primary School, Silpahari, Janpad Panchayat, District Bilaspur and was later transferred to the Office of Block Education Officer, Bilaspur. The Petitioner points out that in connection with the personal requirement after child birth, he had to remain on leave from January to July, 2017, and after he joined duties on 04.07.2017, he was transferred as per order dated 11.07.2017 (Annexure A-3) from Janjgir-Champa to Balrampur, which according to the petitioner is a far away place from the residence and his family. The applicant in fact joined his duties at Balrampur on 11.09.2017 and submitted a representation (Annexure A-5) on 26.09.2017, requesting for transfer to nearby places like Janjgir, Raigarh or Kawardha, so as to help his wife and the little child; in view of the adverse consequence resulted by an accident suffered by his wife. The said application came to be rejected as per memorandum dated 17.10.2017 and the petitioner was required to join duty, failing which disciplinary proceeding would be initiated against him. This was subjected to challenge by filing O.A. No. 883/2018 with the following prayers:

“8.1 That, the Hon'ble Tribunal may be kindly pleased to call for the entire records pertaining to the case of the applicant and in respect of the impugned order kept in possession of the respondents, for its kind perusal.

8.2 that, this Hon'ble Tribunal may kindly be pleased to quash and set aside the impugned order dated 17.10.2017 (Annexure-A/10 passed by the respondent No.3 and declare the same to be illegal, arbitrary, discriminative and malafide in the eyes of law.

8.3 That, this Hon'ble Tribunal may kindly be pleased to direct the respondents to consider the application

of the applicant for transfer and transfer him preferably to Bilaspur.

8.4 That, the Hon'ble Tribunal may be pleased to grant any other relief which the Hon'ble Tribunal deems fit and proper in the facts and circumstances of the present case.

8.5 That, the Hon'ble Tribunal in the facts and circumstances of the present case may further be pleased to grant cost of the application to the applicant."

3. The merit of the prayers was considered by the Tribunal and interference was declined as per Annexure P-3 Order, also placing reliance on the verdicts passed by the Apex Court on different occasions; holding that the applicant was having no absolute right to have a posting at Bilaspur or nearby place, only on the ground that his wife was also working as a Government servant, at Bilaspur. Accepting the exigencies of service, pressed on the part of respondents, the O.A. was dismissed as per Annexure P-3 order, which is put to challenge in this petition.
4. We have gone through the entire materials on record, including the additional documents filed by the petitioner as Annexure P-4 and P-5 (along with I.A. No. 02/2019 and 03/2019) respectively. The said documents are in relation to the posting to be given to the husband and wife at the same station and also the recommendation given in this regard by some of the authorities. In the present petition, we can only examine the legality of the verdict passed by the Tribunal vide Annexure P-3, in exercise of our supervisory jurisdiction under Article 227 of the Constitution of India. As per the memorandum dated 17.10.2017 (challenged in the O.A.), the petitioner was required to join duties and he was alerted that in case of his failure, disciplinary proceedings would be initiated. What happened thereafter is not brought to our notice. Considering the course pursued by the Tribunal, we are of the view that there is no jurisdictional error, either factual or legal, with regard to the course

pursued by the Tribunal, declining to interfere with the Office Memorandum dated 17.10.2017.

5. This being the position, this is not a fit case to call for interference, invoking the supervisory jurisdiction. Accordingly the Petition stands dismissed. However, it is made clear that, if the petitioner is entitled to get any relief based on the verdict in O.A. No. 883/2018 produced along with I.A. No. 02/2019 and 03/2019 and the recommendation made by the Competent Authority as per Annexure P-4 and P-5 produced along with the said I.As., it is quite open for the petitioner to pursue the same by way of appropriate proceedings and it will be for the authorities concerned to have it considered and finalised in accordance with law, as expeditiously as possible.

6. With the above direction, the Writ Petition stands disposed of.

Sd/-
(PR Ramachandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge