

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 940 of 2019

Smt. Radha Chouhan W/o Shri Gopi Ram Chouhan Aged About 52 Years Working As Block Coordination Person (B.R.P.) And Posted At Block Resource Centre Bamhanidih, District Janjgir Champa Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh, Through Secretary, School Education Department Mantralaya Mahanadi Bhawan, Atal Nagar, Naya Raipur Chhattisgarh.
2. Mission Director, Rajiv Gandhi Shiksha Mission Raipur, District - Raipur Chhattisgarh.
3. The Collector And Mission Director Rajiv Gandhi Shiksha Mission Janjgir Champa District - Janjgir Champa Chhattisgarh.
4. The Collector And Mission Director, Rajiv Gandhi Shiksha Mission Raigarh, District - Raigarh Chhattisgarh.
5. The District Mission Coordinator Rajiv Gandhi Shiksha Mission, Janjgir, District - Janjgir Champa Chhattisgarh.
6. The District Mission Coordinator Rajiv Gandhi Shiksha Mission, Raigarh, District - Raigarh Chhattisgarh.
7. Hitendra/Hirendra Kumar Behar S/o Shri D. P. Behar Aged About 54 Years Working As B.R.P. (Contract) And Posted At Rajiv Gandhi Shiksha Mission District Office Janjgir, District Janjgir Champa Chhattisgarh.

---Respondents

For Petitioner	:	Mr. R.S. Patel, Advocate
For State	:	Mr. Anshuman Shrivastava, P.L.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

15/02/2019

1. The challenge in the present writ petition is to the order dated 05.02.2019 and the order dated 14.08.2017. The order dated 05.02.2019 is an order, whereby the petitioner has been relieved from the post of Block Resource Person, Block Bamhanidih to her substantive place of posting as Headmaster at the Govt. Middle School, Kotadabari and the order dated 14.08.2017 is an order, by

which the respondent No.7, who was already working as a Block Resource Coordinator at Block Resource Centre, Baramkela has been sent on deputation to the Block Resource Centre, Bamhanidih.

2. The facts of the case is that the order dated 14.08.2017 was not implemented by the respondents and therefore the respondent No.7 filed a writ petition before this Court vide WPS No. 5663/2018. The said writ petition was disposed of by this Court on 31.08.2018 directing the respondents to ensure that the order dated 14.08.2017 is complied with and implemented at the earliest. Pursuant to the direction given by this Court on 31.08.2018, the impugned order Annexure P/1 dated 05.02.2019 has been passed.
3. The petitioner is challenging the two orders on the ground that the respondent No.7 is substantively a contractual employee and therefore his services could not have been either transferred or sent on deputation from one district to another district. According to him the rules also does not envisage any such clause, whereby a contractual employee could be transferred or sent on deputation.
4. The further contention of the petitioner is that by relieving of the petitioner to the post of Headmaster would amount to reversion, as the post of Block Resource Person is a higher post, which the petitioner was enjoying since 22.02.2018 onwards.
5. Both these grounds, which the petitioner has raised in the present writ petition may not be a strong ground for this Court in exercise of its writ jurisdiction to interfere with the impugned order.
6. What has to be understood is that the petitioner substantively was a Headmaster and was posted at the Govt. Middle School, Kotadabari.

The post of Block Resource Person was an additional charge that the petitioner was having. What also is evident from the record that the respondent No.7 was already ordered to be posted as a Block Resource Person for Block Bamhanidih, even before the petitioner got an order in her favour as a Block Resource Person for Block Bamhanidih.

7. Since the order passed in favour of the respondent No.7 was not being implemented, the respondent No.7 had approached the High Court for its implementation and this Court had directed the respondent/State to take appropriate steps.
8. In the given factual background, if the respondent/State has passed an order granting joining to the petitioner as per the order dated 14.08.2017, the same cannot be said to be either bad in law or arbitrary. What also is apparent from the record is that the respondent No.7 even prior to the order dated 14.08.2017 was already working as a Block Resource Person at Block Baramkela, even if it was on contractual basis.
9. Subsequently, if there is a change of place of posting of the respondent No.7, the same by itself cannot be said to be bad in law or arbitrary. If the contractual employee in one district can be engaged for discharging the duties of a Block Resource Person, the Government has all the rights to shift the person from one place to another also, even though the rules may be silent to that effect.
10. So far as the ground of the impugned order having being passed to accommodate the respondent No.7, the said ground may not be sustainable for the reason that the respondent No.7 had an order in his favour getting a posting at Bamhanidih much before the

petitioner was given the charge of Block Resource Person at Bamhanidih.

11. Given the aforesaid facts and circumstances of the case, this Court does not find any strong case made out for interfering with the impugned order. The writ petition thus being devoid of merits, stands dismissed.

Sd/-
(P. Sam Koshy)
Judge

Ved