

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 2094 of 2019

Sanjay Kumar Mehar S/o Late B. R. Mehar, Aged About 43 Years, Asitt. Teacher (L.B.) At Present Primary School Bagmeda CAC Jamjhor Block/ Tehsil Pathalgaon, District Jashpur, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Department Of Education Mahanadi Bhavan, Mantya, Naya Raipur, Chhattisgarh
2. The Collector, Jashpur District Jashpur, Chhattisgarh
3. District Education Officer, Jashpur, District Jashpur, Chhattisgarh
4. Block Education Officer, Block Pathalgaon, District Jashpur, Chhattisgarh

---Respondents

For Petitioner	:	Mr. K. N. Nande, Advocate
For State	:	Mr. Rahul Mishra, Dy. G.A.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

20/03/2019

The challenge in the present writ petition is to the order Annexure P-3 dated 26.12.2018 to the extent of change of place of posting of the petitioner.

2. Facts of the case are that the petitioner while working as an Assistant Teacher (L.B.) at Govt. Primary School, Sagarpali, District Jashpur was placed under suspension on 18.09.2018. The order of suspension subsequently has been revoked vide order dated 26.12.2018 whereby the petitioner has been inflicted with a minor punishment of stoppage of one annual increment without cumulative effect and revoking the order of

suspension, the petitioner has been posted at Govt. Primary School, Bagmeda under Jamjhor Cluster, Block , Pathalgaon, District Jashpur.

3. The petitioner is aggrieved by the change of posting. According to the petitioner, since he was placed under suspension while working at Govt. Primary School, Sagarpali, on revocation of the suspension order, he ought to have been taken back in service at the same place i.e. Sagarpali.

4. The issue raised in the present writ petition recently came up for hearing before the Division Bench of this Court in WPS No. 7269/2017 whereby the Division Bench of this Court while deciding the matter on 15.11.2018 in paragraph-14 held as under:

“The question of law for which the reference was made has been answered in the preceding paragraphs of this order. To sum, it cannot be a thumb rule that an employee whose suspension has been revoked has a right to be posted and continued in the same place of posting on revocation of suspension, as he only has a lien on the post and not on the place of posting. ”

5. In view of the fact that the Division Bench of this Court, in very categorical term, has held that on revocation of suspension, the employee has only a protection of lien to the post and not the protection of the place of posting, the grievance of the petitioner does not seem to have much force.

6. This Court, all the more, does not find a strong ground for interfering with the impugned order for the reason that the impugned order in the instant case has been passed on 26.12.2018 and counsel for the petitioner fairly concedes that the petitioner has since complied with the impugned order and has also joined at Govt. Primary School, Bagmeda.

7. Given the fact that the order has been acted upon by the petitioner and the writ petition is now being filed after almost 3 months, the writ petition may not be sustainable. For both these reasons, the writ petition fails and is accordingly dismissed.

8. If at all if the petitioner has any inconvenience working at Bagmeda, the petitioner may make a suitable representation to the higher authority concerned who in turn may consider and decide the same in accordance with the rules and regulations and the guidelines governing the field.

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

Khatai