

HIGH COURT OF CHHATTISGARH, BILASPUR**WRIT PETITION (S) NO.5120 OF 2019**

1. Rajendra Kumar Sao S/o Late Shri Phoolchand Sao, Aged About 60 Years Occupation - Head Master, Middle School Bhataguda, Tahsil and Block Jagdalpur District - Bastar Chhattisgarh.

...Petitioner(s)**Versus**

1. State of Chhattisgarh Through Secretary School Education Department, Mahanadi Bhawan, Atal Nagar District - Raipur Chhattisgarh.
2. The Collector Bastar, Jagdalpur District - Bastar Chhattisgarh.
3. The District Education Officer Bastar, Jagdalpur District - Bastar Chhattisgarh.
4. The Block Education Officer Bastar, Jagdalpur District - Bastar Chhattisgarh.

... Respondent(s)

For Petitioner	:	Shri Avinash K Mishra, Advocate.
For Respondent-State	:	Shri Chandresh Shrivastava, Dy. A.G.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****15.07.2019**

1. Challenge in this petition is to the order dated 03.07.2019 (Annexure P/1) whereby the petitioner has been ordered to be relieved to join at his substantive place of posting i.e. Middle School, Markel.
2. According to the petitioner, there is no dispute so far as his original place of posting being Middle School Markel is concerned. Later on, the respondents themselves vide order dated 14.10.2009 had on account of vacancy that arose in the Middle School Bhataguda, Block Jagdalpur, of the post of Headmaster, the petitioner was temporarily posted there. According to the petitioner, the petitioner is working at Bhataguda since October, 2009 and by efflux of time the petitioner has to be accepted to have substantively posted at Bhataguda though no formal order have been passed in this regard. He further submits that now after more than a

decade, the petitioner could not have been relieved back to his original place of posting at Markel. The petitioner is aged around 60 years and only two years service is left therefore at this juncture he should not be disturbed from the present place of posting.

3. The State counsel on the contrary opposing the petition submits that it is a case where the petitioner indisputably is substantively in the record posted at Middle School, Markel. The order of year, 2009 (Annexure P/6) is one which was only a temporary arrangement made and the petitioner as such would not have an indefeasible right on the said posting. Moreover, the impugned order has been passed pursuant to the policy decision of the State Govt. whereby they have withdrawn all orders of attachment of the employees to different places and have ordered for sending back the attached persons to their substantive place of posting. Thus, the impugned order cannot be said to be bad in law.
4. Having heard the contentions put forth on either side and on perusal of records, particularly taking note of the fact that the petitioner at the present place of posting has been working since October, 2009 onwards i.e. at Middle School Bhataguda; 10 years time is a long period of time to be treated as temporary arrangement. Moreover, from the record it appears that even salary of the petitioner was being drawn against the post of Headmaster Middle School Bhataguda. This again would show that the petitioner was not posted there as stop gap arrangement or as additional arrangement for the intervening period. By efflux of time i.e. 10 years, the petitioner has derived the status of a permanent staff of the Middle School Bhataguda and therefore, at this juncture i.e. after 10 years there was no occasion of sending the petitioner back to the original place of posting.

5. If at all, if the respondents/State intended to change the place of posting or transfer the petitioner from one place to another taking into consideration his length of service at the present place of posting, the respondents had a liberty of issuing appropriate transfer order in this regard. It appears that the State Govt. has not resorted to such steps and have passed the order of sending the petitioner back to a place where he was posted 10 years back.
6. Given the said facts and circumstances of the case, this court is of the opinion that there does not seem to be any logic involved in sending the petitioner back to the substantive place of posting i.e. at Middle School, Markel after a lapse of 10 years and in between the petitioner having worked at Middle School Bhataguda for the entire 10 years period. The impugned order so far as petitioner is concerned, therefore is set aside/quashed reserving the right of the respondents to take an appropriate steps in this regard.
7. The writ petition accordingly stands allowed and disposed of.

Sd/-

(P. Sam Koshy)
Judge