

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 350 of 2019**

(Arising out of the order dated 4.7.2019 passed by learned Single Judge in WPS No.4893/2019)

1. Ku. Rekha Khande, D/o Shri R.R. Khande, aged about 33 years, presently posted as Hostel Superintendent at Govt. Post Metric Schedule Tribe Girls Hostel, Jarhabhatha, District Bilaspur (CG) Permanent R/o Village Pendari, Post - Sakri, Tahsil - Takhatpur, District Bilaspur (CG)

---- Petitioner**Versus**

1. State of Chhattisgarh, through Secretary, Department of Tribal Welfare, Mantralaya, Mahanadi Bhavan, Atal Nagar, Naya Raipur, District Raipur (CG)
2. The State of Chhattisgarh, through- Secretary, Department of School Education, Mantralaya, Mahanadi Bhavan Atal Nagar, Naya Raipur, District Raipur (CG)
3. The Commissioner, Tribal Welfare Department, Indrawati Bhavan, Atal Nagar, Naya Raipur, District Raipur (CG)
4. The Collector (Tribal Development) Bilaspur, District Bilaspur (CG)
5. The Assistant Commissioner (Tribal Welfare) Bilaspur, District Bilaspur (CG)
6. The District Education Officer Bilaspur, District Bilaspur (CG)
7. Zila Panchayat Bilaspur, Through its Chief Executive Officer, Zila Panchayat, Bilaspur (CG)
8. Ku. Anuradha Dhruv, Hostel Superintendent, Grade-D, Pre-Metric Aadiwasi Girls Hostel, Gaurela, Block-Gaurela, District-Bilaspur (CG)
9. Smt. Heera Netam, Incharge Hotel Superintendent, Post Graduate Aadiwasi Girls Hostel, Jarhabhatha, Bilaspur, District Bilaspur (CG)

---- Respondents

For Appellant	:	Mr. Roop Naik, Advocate
For Respondent 1 to 6	:	Mr. Sudeep Verma, Dy. Government Advocate

Hon'ble Shri P. R. Ramchandra Menon, CJ
Hon'ble Shri Parth Prateem Sahu, J

Order On Board

Per Parth Prateem Sahu, J

18/11/2019

1. Petitioner/appellant feeling aggrieved by the order of the learned Single Judge filed this writ appeal with the prayer that the impugned order be set aside and the reliefs, as sought in writ petition, be granted.
2. Facts of the case, in brief, are that the petitioner was originally appointed as 'Assistant Teacher (LB)' and posted at Government Primary School, Khamariya, Block Takhatpur, District Bilaspur (CG). By virtue of order Annexure P-3 dated 9.1.2019 the appellant has been directed to discharge duties as 'Superintendent, Post Metric Post-Graduate Tribal Girls Hostel, Jarhabhata, Bilaspur' until further orders. Subsequently, the order dated 9.1.2019 stood amended vide another order dated 2.3.2019 (Annexure P-2) and respondent No.9 has been directed to discharge duties of 'Hostel Superintendent, Post-Graduate Tribal Girls Hostel, Jarhabhata, Bilaspur'. Pursuant to the order dated 2.3.2019, respondent No.9 assumed the charge and has been discharging the duties as Hostel Superintendent, Post-Graduate Girls Hostel, Jarhabhata, Bilaspur. Respondent No.4 issued an order on 19.6.2019 handing over charge of the Hostel Superintendent, Post Metric Tribal Girls Hostel, Jarhabhata, Bilaspur to respondent No.8 and reverting back petitioner/appellant to her original post i.e. Assistant Teacher

(LB), Government Boys Primary School, Khamariya, Block Takhatpur, District Bilaspur. Aggrieved by this order the petitioner preferred writ petition before the learned Single Judge, who after hearing both the sides declined to interfere in the order dated 19.6.2019.

3. Mr. Naik, learned counsel representing the appellant submits that since respondent No.9 is working as a 'teacher' in the Panchayat Department, she cannot be permitted to work as 'Hostel Superintendent'. He also submits that the learned Single Judge failed to consider that the post of 'Hostel Superintendent' is a sanctioned post and the appellant being absorbed in the School Education Department and posted as 'Hostel Superintendent' prior to respondent No.8, has preferential right to hold the post of 'Hostel Superintendent' of Post Metric Tribal Girls Hostel, Jarhabhata, Bilaspur.
4. Per contra, learned State Counsel submits that posting of appellant as 'Hostel Superintendent' was temporary in nature to meet out the immediate exigency. Appellant has not been given permanent posting as 'Hostel Superintendent' by way of transfer order and therefore she cannot claim posting, as a matter of right, at Post Metric Post Graduate Tribal Girls Hostel, Jarhabhata, Bilaspur.
5. We have heard learned counsel for the parties and perused the records.
6. Perusal of the order Annexure P-5 reveals that on account of repatriation/ reversion of the then 'Hostel Superintendent' to her original post due to complaint made by students, appellant has

been given charge of 'Hostel Superintendent' until further orders. Thus, it is apparent that it was not a transfer but temporary arrangement till regular arrangement is made. Perusal of order Annexure P-2 dated 2.3.2019 reveals that respondent No.9 has been directed to perform duties of the Superintendent, Post-Graduate Tribal Girls Hostel, Bilaspur and in compliance thereof, the appellant has handed over charge of the said post to respondent No.9 and she is discharging the duties in such capacity. By virtue of Annexure P-1, respondent No.8 has been given charge of 'Hostel Superintendent', Post Metric Tribal Girls Hostel, Jarhabhata, Bilaspur and the appellant was directed to join at her original place of posting. A glance of this order would show that respondent No.8 is appointed on the post of 'Hostel Superintendent' itself.

7. Looking to the fact that in place of appellant regular 'Hostel Superintendent' has been posted and further considering the documents relied upon by the appellant herself, which were filed along with the return, wherein it was directed that on vacant post of regular 'Hostel Superintendent' arrangement should be made from other teachers working in the department to manage affairs of the said hostel, this submission of learned counsel for appellant is not sustainable that she has right to hold the said post and she cannot be sent back to her original place of posting by virtue of order of Annexure P-1 i.e. Government Primary School, Khamariya, Block Takhatpur, District Bilaspur (CG).
8. So far as the submission of learned counsel for petitioner that respondent No.9 is a teacher and therefore respondent No.5

cannot post her at the Post Graduate Girls Hostel is concerned, we do not find force in this submission. It is the case of appellant herself that respondent No.9 was posted vide order dated 2.3.2019. She also assumed her charge by taking it over from appellant. Appellant was discharging duties as In-charge Superintendent of Post Metric Tribal Girls Hostel, Bilaspur since March, 2019. In place of appellant, respondent No.8 is posted, whose initial appointment is of 'Hostel Superintendent'.

9. Thus, considering the overall facts and circumstances of the case, particularly the fact that appellant was given charge of Hostel Superintendent, Post Metric Tribal Girls Hostel, Jarhabhata, Bilaspur as a stop-gap arrangement to meet out the exigencies which has suddenly arisen on account of repatriation of the then Hostel Superintendent and that the appellant has not been adversely affected by the order dated 19.6.2019 and she will continue to work on her regular posting i.e. Assistant Teacher (LB), we do not find any illegality or irregularity in the order passed by the learned Single Judge.

10. The appeal is, thus, devoid of any substance and is dismissed accordingly.

Sd/-
(P.R. Ramchandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge

roshan/-