

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 6771 of 2019**

H.R. Chouhan (Hetram Chouhan) S/o Late Shri Puniram Chouhan
Aged About 60 Years Presently Working As A Assistant Commissioner
At Tribal Development Department, District Janjgir Champa,
Chhattisgarh, District : Janjgir-Champa, Chhattisgarh

---- Petitioner**Versus**

1. The State Of Chhattisgarh Through Secretary, Schedule Tribe And Schedule Caste Development Department Mantralay Mahanadi Bhawan, Naya Raipur, Atal Nagar, Raipur, District Raipur, Chhattisgarh, District : Raipur, Chhattisgarh
2. Shri P.C. Lahre, Presently Working As A Office Assistant Commissioner At Development Department, District Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh

----Respondents

For Petitioner	:	Mr. Roop Naik, Advocate
For State	:	Mr. Ayaz Naved, G.A.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****03/09/2019**

1. The challenge in the present writ petition is to the order Annexure P/1 dated 22.08.2019, whereby the petitioner has been transferred from Tribal Development Department District Janjgir-Champa to Commissioner Schedule Tribe and Schedule Tribal Department Raipur.
2. The grievance of the petitioner is that the order of transfer reflects the petitioner as an Assistant Director, which is a lower post, whereas the petitioner already has been substantively promoted to the post of Assistant Commissioner and therefore he cannot be sent on a lower post. He further submits that the petitioner is also being sent as a Commissioner and which the petitioner is not eligible and competent to hold and therefore the impugned order is bad.
3. This Court is of the opinion that since the petitioner's contention is that the petitioner is primarily an Assistant Commissioner which is a higher

post than that of the Assistant Director, the respondents are directed to ensure that the status of the petitioner is not compromised and the petitioner at the place of posting would also be given the status facilities and the designation that of Assistant Commissioner or an equivalent post and not on any other lower post.

4. So far as the post, on which the petitioner is being sent is concerned the submission of the petitioner is not acceptable as the impugned order reflects that the petitioner is being sent in the office of the Commissioner, Tribal Development. The other ground of the petitioner that it is in violation of the transfer policy of the State Government so far as the reliever being a lower post holder than the petitioner, this Court is of the opinion that the said may not be a strong ground calling for an interference of the order of transfer for the reason that the post which is false vacant on the petitioner's getting transferred has to be filled up as per the instructions of the State Government. The State Government has to ensure that the transfer policy of the State Government and the condition to the transfer policy as far as possible is complied with. If the respondents have sent an officer, who is lower in rank than the petitioner under compelling circumstances that would not make out a case for the petitioner to challenge his order of transfer.
5. With the aforesaid observations, the present writ petition stands disposed off.

Sd/-
(P. Sam Koshy)
Judge