

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 7358 of 2019

Harishankar Sahu S/o Late Amarnath Sahu Aged About 59 Years Working As Sub-Divisional Officer, Hasdeo Bayi Tat Nahar Water Management Sub-Division No.7, Nariyara, District Janjgir-Champa, Chhattisgarh.

---- Petitioner(s)

Versus

1. State of Chhattisgarh Through the Under Secretary, Water Resources Department, Mantralaya, Atal Nagar, New Raipur, Chhattisgarh.
2. The Engineer-In-Chief Water Resources Division, Sihawa Bhawan, Raipur, Chhattisgarh.
3. The Chief Engineer Hasdeo Kachhar, Water Resources Department, Bilaspur, Chhattisgarh.
4. Kamlesh Kumar Singh Assistant Engineer, Office Of Sub-Divisional Officer, Hasdeo Bayi Tat Nahar Water Management Sub-Division No.7, Nariyara, District Janjgir-Champa, Chhattisgarh.

---Respondents

For Petitioner	:	Shri Kamlesh Kumar Pandey, Advocate.
For State	:	Shri Jitendra Pali, Dy. Advocate General.
For Respondent 4	:	Shri Shivang Dubey, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

13.09.2019

1. Challenge in the present Writ Petition is to the order of transfer dated 09.08.2019 whereby the petitioner has been transferred from Nariyara, Janjgir Champa to Khamharpakut, Lailunga.
2. The grievance of the petitioner is that of his replacement being made by a person who is otherwise ineligible to be given the charge of Assistant Engineer. The petitioner refers to the order dated 03.08.2018 whereby the Govt. had taken a decision not to give the charge of Assistant Engineer to those Assistant Engineers who have been promoted from Sub Engineer by creation of supernumerary post. The contention of the petitioner is that, the name of the private respondent is also not reflected in the gradation list of the Assistant Engineer and therefore he could not have been ordered to replace the petitioner. Further ground of the petitioner is that of petitioner

being transferred from one Tribal area to another Tribal area as the petitioner has already worked more than 15 years in a Tribal area. The third ground raised is that of distance between the two places which is more than 200 KMs.

3. On a query being put to the counsel for the petitioner, he submitted that the petitioner at the present place has already worked for a period of two years. Under the transfer policy of the State Govt., transfer is permissible of all those employees/officers who have remained at one place for more than one year. Thus, the order of transfer of the petitioner cannot be said to be in violative of the transfer policy. So far as replacement being made by a person who otherwise could not have been granted the post of Assistant Engineer in the light of the order dated 03.08.2018 of the State is concerned, it shall be the responsibility of the respondents to look into the aspect and consider whether the respondent No.4 could be transferred in place of the petitioner keeping the order dated 03.08.2018 in mind.
4. Let an appropriate decision be taken by the respondent No.1 in this regard at the earliest preferably within a period of 60 days from the date of receipt of copy of this order. A decision in this regard is all the more necessary for the reason that such objections are being raised in lot of writ petitions that are being filed. To settle the dispute, it would be necessary for the State authorities to take a decision on the administrative side once for all.
5. Let a copy of this order be sent to the Chief Secretary of the State as also the Principal Secretary, Water Resources Department of the State of Chhattisgarh.
6. The writ petition accordingly stands disposed of.

Sd/-
(P. Sam Koshy)
Judge