

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 7852 of 2019**

1. S.R. Panchkhanday, S/o Shri Rama Rao, Aged About 52 Years, R/o G.I. Government Residential Duttashray Colony, Tehsil: Pendra Road, District : Bilaspur, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, Department Of Public Works, Mantaralaya, Mahanadi Bhawan Naya Raipur, District : Raipur, Chhattisgarh
2. Engineer- In- Chief, Department Of Public Works, Nirman Bhawan, North Block, Sector - 19 Atal Nagar Raipur, Chhattisgarh Mahanadi Bhawan, Naya Raipur, District : Raipur, Chhattisgarh
3. Chief Engineer, Department Of Public Works, Bilaspur Region Bilaspur, District : Bilaspur, Chhattisgarh
4. Shri S.R. Kaushik, Department Of Public Works, Division Korba, District : Korba, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Sunil Otwani, Advocate
For State	:	Mr. Ashutosh Mishra, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy**Order on Board****25.09.2019**

1. The challenge in the present Writ Petition is to the impugned order Annexure P-1 dated 19.08.2019, whereby the petitioner has been transferred from Pendra Division, Public Works Department to the Office of Public Works Department (State Highways), Sukma.
2. The challenge is on the ground that, the order of transfer has been made in the mid-session and the son of the petitioner is studying/appearing for the 12th Examination in the current academic

Session 2019-2020 and at this juncture, transferring the petitioner would be detrimental to the educational career of the petitioner.

3. Given the said fact, let the petitioner make a representation to the authorities within a period of 10 days from the date of receipt of copy of this Order and the respondent authorities in turn shall consider and decide the same within a further period of 45 days from the date of receipt of representation of the petitioner. While taking a decision on the said representation, it would be relevant for taking note of the order of the Hon'ble Supreme Court rendered in the case of ***Director of School Education, Madras & Ors Vs O. Karuppa Thevan & Another in 1994 Supp (2) SCC 666***, wherein the Hon'ble Supreme Court dealing with an issue of transfer in the mid-session has held as under:

“Although there is no such rule, we are of the view that in effecting transfer, the fact that the children of an employee are studying should be given due weight, if the exigencies of the service are not urgent. The learned counsel appearing for the appellant was unable to point out that there was such urgency in the present case that the employee could not have been accommodated till the end of the current academic year. We, therefore, while setting aside the impugned order of the Tribunal, direct that the appellant should not affect the transfer till the end of the current academic year. The appeal is allowed accordingly with no order as to costs”

4. It is expected that, the authorities would take this fact into consideration, while deciding the representation of the petitioner.
5. With the aforesaid observation, the present Writ Petition stands disposed off.

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