

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 7997 of 2019**

Akhilesh Mishra S/o P. N. Mishra, Aged About 49 Years, Originally Posted As Lecturer, Incharge Block Education Officer, Dantewada, District Dantewada, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Under Secretary, Department Of School Education, Mantralaya, Atal Nagar New Raipur, Chhattisgarh
2. The District Education Officer, Dantewada, District Dantewada Chhattisgarh
3. D. S. Dhruw Posted As Principal, Govt. Higher Secondary School, Barsur, District Dantewada, Chhattisgarh
4. The Collector Dantewada, District Dantewada, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Kamlesh Kumar Pandey, Advocate
For State	:	Ms. Abhyunati Singh, P.L.

Hon'ble Shri Justice P. Sam Koshy**Order On Board****27.09.2019**

1. The challenge in the present writ petition is to the impugned order Annexure P-1 dated 22.08.2019 whereby the petitioner has been transferred from the post of Block Education Officer, Dantewada to the post of Lecturer, Govt. Higher Secondary School, Dantewada.
2. The contention of the petitioner is that he has been forced to work on

a lower post in the same block which would be humiliating for him inasmuch as at the same place where the petitioner for the last 2 years has been working as a Block Education Officer would now be discharging the duty of a Lecturer under the supervision of someone. The second ground of challenge is that the petitioner substantively was posted at district Baster and while working at Baster, the petitioner was sent on deputation on 26.08.2017 as a District Mission Coordinator, Rajeev Gandhi Shiksha Mission, District Dantewada. Subsequently, the petitioner was as a temporary arrangement made the Block Education Officer vide order dated 06.10.2017 on which post the petitioner till date has been discharging his duties and now the petitioner has been transferred to discharge his duties as a Lecturer.

3. Prima facie, this Court does not find any strong case made out by the petitioner calling for an interference with the impugned order of transfer. The transfer of the petitioner has been made within the same block and the distance between the two places is not such which would cause any inconvenience to the petitioner. Second ground is that the petitioner substantively is a Lecturer and vide the impugned order, the petitioner has been sent as a Lecturer to the Govt. Higher Secondary School at Dantewada. There is no change in the substantive post that the petitioner was holding. The post of Block Education Officer which was assigned to the petitioner vide order dated 06.10.2017 was a temporary arrangement in the light of the earlier Block Education Officer having been placed under suspension. Therefore, the petitioner does not have any indefeasible claim on the

said post of BEO. The impugned order is a usual routine order of transfer passed by the State Govt. considering the administrative exigency and the petitioner who substantively holds the post of Lecturer is being sent as a Lecturer to a nearby school. Therefore, the petitioner cannot have any grievance against the said order.

4. The law as regards transfer is by now well settled by a catena of decisions of the Hon'ble Supreme Court. In case of **State of U.P. Vs. Siyaram (2004) 7 SCC 405**, the Supreme Court has held as under:-

“The High Court while exercising jurisdiction under Articles 226 and 227 of the Constitution of India had gone into the question as to whether the transfer was in the interest of public service. That would essentially require factual adjudication and invariably depend upon peculiar facts and circumstances of the case concerned. No government servant or employee of a public undertaking has any legal right to be posted forever at any one particular place or place of his choice since transfer of a particular employee appointed to the class or category of transferable posts from one place to other is not only an incident, but a condition of service, necessary too in public interest and efficiency in the public administration. Unless an order of transfer is shown to be an outcome of mala fide exercise or stated to be in violation of statutory provisions prohibiting any such transfer, the Courts or the tribunals normally cannot interfere with such orders as a matter of routine, as though they were appellate authorities substituting their own decision for that of the employer/management, as against such orders passed in the interest of administrative exigencies of the service concerned. This position was highlighted by this Court in National Hydroelectric Power Corpn. Ltd. V. Shri Bhagwan”.

5. A Similar view has also been taken by the Supreme Court in case of **Union of India and others V. Janardhan Debanath and others (2004) 4 SCC 245**.
6. The Supreme Court, in **Airports Authority of India V. Rajeev Ratan Pandey & others, 2009 (8) SCC 337** held that “In a matter of transfer of a government employee, scope of judicial review is limited and the High Court would not interfere with an order of transfer lightly, be it at

interim stage or final hearing. This is so because the Courts do not substitute their own decision in the matter of transfer”.

7. This Court has limited jurisdiction to interfere with the transfer matter except in the cases of proved mala fide, non-competence of authority passing the transfer order and not being in conformity with the rules and regulations. The petitioner/employee cannot be permitted to remain at one place forever. Under the provisions of service rules, employer has all the powers to post an employee at a particular place in view of public interest and administrative exigency. **(See High Court of Judicature of Madras Vs. R. Perachi (2011) 12 SCC 137.**
8. In view of the aforesaid judgments by the Supreme Court and which have been followed by all the High Courts in the country, this Court does not find any strong case made out by the petitioner calling for interference with the impugned order of transfer. Thus, the writ petition being devoid of merits deserves to be and is accordingly dismissed.
9. However, the dismissal of the writ petition would not come in the way of the petitioner to approach the authorities concerned for any consideration for change of place of posting.

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