

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 8551 of 2019**

Ganesh Ram Thakur, S/o. Late Dhan Singh Thakur, Aged About 60 Years, Occupation Service, Presently Working As Chief Executive Officer, Janpad Panchayat Marwahi, District Bilaspur, R/o. Block Colony, Marwahi, District Bilaspur, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh, Through The Secretary, Schedule Caste And Schedule Tribal Development Department, Mahanandi Bhawan, Mantralaya, Atal Nagar, Nawa Raipur, District Raipur, Chhattisgarh
2. Secretary, Department Of Animal Husbandry And Dairying, Mahanandi Bhawan, Mantralaya, Atal Nagar, Nawa Raipur, District Raipur, Chhattisgarh
3. Collector Bilaspur, District Bilaspur, Chhattisgarh
4. Zila Panchayat Bilaspur, Through Its Chief Executive Officer, Zila Panchayat, Bilaspur, District Bilaspur, Chhattisgarh
5. Chief Executive Officer Zila Panchayat, Bilaspur District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh
6. Project Administrator, Unified Tribal Welfare Project, Gorella, District Bilaspur, Chhattisgarh
7. M.K.Yadav, Assistant Veterinary Doctor, Department Of Animal Husbandry And Dairying And Assistant Project Officer, Marwahi, District Bilaspur, Chhattisgarh.

---- Respondents

For Petitioner	:	Mr. Malay Shrivastava, Advocate
For State	:	Mr. Alok Bakshi, Addl. A.G. with Mr. Soumya Rai, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****13.12.2019**

Heard

1. The present petition is against the order dated 11.10.2019 (Annexure P-1) wherein the petitioner, who was posted as Chief

Executive Officer, Janpad Panchayat Marwahi has been transferred to Office of Integrated Tribal Welfare Project, Gaurella, District Bilaspur.

2. Learned counsel for the petitioner would submit that the petitioner was posted as Chief Executive Officer, Janpad Panchayat Marwahi by order dated 30.01.2016 (Annexure P-3) which was issued by the State Government. Subsequently, he went on medical leave and after returning from medical leave since the charge was not given to him, it led to filing of WPS No.1555 of 2019 and this Court on 07.03.2019 required the petitioner to file a representation. The representation having been filed, it was decided by 12.06.2019 and the petitioner was given the charge of Janpad Panchayat Marwahi and M.K.Yadav was repatriated back to his parent department of Veterinary. It is stated that as per the set up of the Government, the services of the petitioner were transferred to Tribal Department and the Chief Executive Officer, Zila Panchayat Bilaspur, therefore, cannot transfer the petitioner to other place. Likewise M.K.Yadav in turn cannot be transferred again back to the same post, as he was repatriated back by the order of the Collector, therefore, the order is bad in law and is non-operative.
3. State counsel opposes the argument and would submit that the Janpad Panchayat Marwahi is within the periphery of Zila Panchayat Bilaspur, therefore, the Chief Executive Officer, Zila Panchayat Bilaspur will have all the power of posting of the petitioner to any Janpad Panchayat.
4. During the submission, the petitioner submits that one circular

was filed, however, the State counsel submits the same has been filed today itself.

5. Heard the parties.
6. The documents would show that the petitioner was posted as Chief Executive Officer, Janpad Panchayat Marwahi on 30.01.2016 and subsequently he was on medical leave for a period of 122 days in between 29.07.2017 to 27.11.2017. Subsequently, when he returned back to the duty, the charge was not being given and a writ petition was filed. This Court on such petition bearing WPS No.1555 of 2019 on 07.03.2019 has passed the following orders :

1. The limited grievance, which the petitioner has raised in the present writ petition is that a dispute of charge of the post of Chief Executive Officer of Janpad Panchayat, Marwahi.

2. The brief facts of the case is that the petitioner while working as a Chief Executive Officer of Janpad Panchayat, Marwahi went on medical leave from 29.07.2017 to 27.11.2017 (i.e. for a period of about 122 days). Subsequently, the petitioner had reported back for duty and since then he is being paid the salary of the post of Chief Executive Officer regularly, but the difficulty, that the petitioner is facing is that he has not been assigned with any work and neither has he been given the charge of Chief Executive Officer of Janpad Panchayat Marwahi, which is still being discharged by the respondent No.4.

3. The grievance of the petitioner is that the respondent No.4 otherwise also is not eligible to hold the post of Chief Executive Officer, Janpad Panchayat and moreover when the petitioner has reported back on duty and the period of absence has been treated as medical leave, the petitioner on his joining, should have been given the charge that he was holding prior to his going on

medical leave.

4. Given the limited dispute that the petitioner has raised, let the petitioner, in addition to the representation that he has made till now, make a fresh representation to the respondent No.1, who in turn shall consider and decide the representation of the petitioner and try to redress his grievance at the earliest preferably within a period of 3 months from the date of receipt of the copy of this order and the representation.

5. With the aforesaid observations, the present writ petition stands disposed off.

7. Subsequently, the petitioner was given the charge of Janpad Panchayat Marwahi on 12.06.2019 by Annexure P-7 and he was posted as Chief Executive Officer, Janpad Panchayat Marwahi, which comes within the periphery of Zila Panchayat Bilaspur. The transfer order subsequently filed purports that for proper execution of work, the petitioner was posted to Integrated Tribal Welfare Project, Gourella as Pariyojna Prashasak, therefore, apparently it appears that from one Janpad Panchayat, the petitioner was posted to another Janpad Panchayat. The order of posting purports that it is in the exigency of better administration of the office work. In view of this, unless the order is tainted with malafide or illegality, the interference of the Court is not called for. In view of the reason assigned for transfer of petitioner, I do not find any plausible cause to interfere. Accordingly, the petition has no merit and is dismissed.

**Sd/-
(Goutam Bhaduri)
Judge**