

HIGH COURT OF CHHATTISGARH, BILASPUR

WA No. 494 of 2019

1. Shueb Qazi S/o Shri G. A. Quazi, aged about 33 years, working As Assistant Labour Commissioner, Near Collectorate Office, Kutcheri Chowk, Raipur, District - Raipur (CG)

---- Appellant

Versus

1. State of Chhattisgarh Through Secretary, Labour Department, Mahanadi Bhawan, Atal Nagar, Raipur (CG)
2. Labour Commissioner, Labour Department, Indrawati Bhawan, Atal Nagar, Raipur (CG)
3. U. K. Kachhap, Assistant Labour Commissioner, Korba District Korba (CG)
4. R. K. Pradhan, (Adhoc Assistant Labour Officer) posted as Assistant Labour Commissioner, Durg District Durg (CG)
5. V.R. Patel, (Assistant Labour Officer) posted as In-Charge Assistant Labour Commissioner, Korba District - Korba (CG)
6. Jyoti Sharma, (Labour Officer) posted as Assistant Labour Commissioner, Bilaspur District - Bilaspur (CG)

---- Respondents

For Appellant	:	Shri Anup Mazumdar, Advocate
For Respondent No.1 & 2	:	Shri S.Agrawal, Dy. Adv.General

Hon'ble Shri P. R. Ramchandra Menon, CJ
Hon'ble Shri Parth Prateem Sahu, J

Order On Board

Per Parth Prateem Sahu, J

24/10/2019

1. Challenge in this appeal is to the verdict of learned Single Judge dated 25.9.2019 declining to interfere with the transfer of the petitioner from the office of Assistant Labour Commissioner, Raipur to the office of Labour Officer, Kabirdham.
2. Facts of the case, in brief, are that the appellant substantively holds the post of 'Labour Officer' and is posted as 'In-charge

Assistant Labour Commissioner, Raipur' since 14.8.2017. Grievance of the appellant is that the Labour Officers, who are juniors to him and posted as In-charge Assistant Labour Commissioner, are still holding the said post, whereas the appellant has been transferred as 'Labour Officer'.

3. Learned counsel for the appellant submits that the appellant is not having any vested right to continue on a particular post for indefinite period but seniority in the cadre should be given weightage. The senior most Labour Officer should be posted as In-charge Assistant Labour Commissioner, but this has not been kept in mind by the respondent authorities while passing the impugned transfer order and the appellant has been transferred and posted as Labour Officer, whereas his juniors are still posted as 'Incharge Assistant Labour Commissioner'.

He also submits that two transfer orders have been passed against the appellant and out of which, in one transfer order the petitioner has been shown as 'Labour Officer' and in another order as 'Incharge Assistant Labour Commissioner'. He further submits that various Circulars issued from time to time by the General Administration Department, Govt. of CG, Raipur in this regard have been overlooked by respondent authorities. He submits that the General Administrative Department, Raipur has issued Circulars to this effect on 4.8.2011 & 14.7.2014 wherein it is mentioned that the officiating charge of the vacant post be given to senior officers and they should not by-pass by junior officers. In the Circular dated 14.7.2014 it is also mentioned that wherever junior officers are officiating as In-charge, they shall be

relieved immediately and the charge be handed over to the senior and competent officers. Lastly, he submits that for the present the appellant may be permitted to make a representation against his transfer order as 'Labour Officer' before the authority concerned and the authority concerned be directed to consider and decide the same expeditiously. In support of submissions, learned counsel for the appellant placed reliance on the decision of Hon'ble Supreme Court in the matter of Narsingh Prasad v. Anil Kumar Jain & ors reported in (2012) 4 SCC 642.

4. Learned State Counsel submits that he has no objection if the appeal is disposed off with a direction to decide the representation of the appellant.
5. Considering the submission put forth by learned counsel for appellant, Circulars of the General Administration Department, Raipur and judgment of Hon'ble Supreme Court in Narsingh Prasad's case (supra), the appeal is disposed of with a direction that in case the appellant submits a representation in respect of the grievance raised by him in this appeal before the authority concerned within a period of 02 weeks from today, the same shall be considered and decided by the authority concerned, by a speaking order, within a period of four weeks from the date of receipt of such representation. It is made clear that this Court has not expressed any opinion on the merits of the case.

Sd/-
(P.R. Ramchandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge

roshan/-