

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 520 of 2019**

*{Arising out of Order dated 25/09/2019 passed in Writ Petition(S) No. 7849 of 2019 by
the learned Single Judge}*

- C.L. Ghritlahre S/o Late shri Ghaduraam Ghritlahre, aged about 60 years, presently Chief Executive Officer, Janpad Panchayat, Kartala, District Korba C.G. R/o Bharti Nagar, Vyapar Vihar Road, Bilaspur C.G.

----Appellant**VERSUS**

1. State of Chhattisgarh through Secretary, Schedule Castes and Schedule Tribe Welfare Department, Mantralaya, Atal Nagar, Raipur District Raipur, C.G.
2. Collector, Korba, District Korba C.G.
3. Shri G.K. Mishra S/o Late Shri R.S. Mishra, aged about 57 years, working as Chief Executive Officer, Kartala (on the basis of interim order passed by this Hon'ble Court), Korba, District Korba C.G.

-----Respondent

For Appellant	:	Ms. Naushina Ali, Advocate
For Respondent No. 3	:	Mr. Pranjal Shukla, Advocate
For Respondent-State	:	Mr. Vikram Sharma, Dy.G.A.

Hon'ble Shri P.R. Ramachandra Menon, Chief Justice**Hon'ble Shri Parth Prateem Sahu, Judge****Order on Board****Per P.R. Ramachandra Menon, C.J.****13/11/2019**

1. The challenge is against the verdict passed by the learned Single Judge in finalizing the writ petition filed by the 3rd respondent herein with regard to the transfer ordered by the competent authority, detrimentally affecting the rights and interests of the appellant for not having afforded an opportunity of hearing to the appellant who was arrayed as the 3rd respondent in the writ petition.
2. Heard Ms. Naushina Ali, the learned counsel for the appellant, learned counsel for the 3rd respondent as well as learned counsel representing the State/Department.

3. The sequence of events is as follows: Annexure P-1 order was passed on 13-09-2019 by the Competent authority, whereby service of the writ petitioner, who was working as Block Education Officer at CEO, Janpad Panchayat, Kartala, Distt. Korba was transferred to the office of the Assistant Commissioner, Tribal Development, Bilaspur. As per the very same order, there was a shift in respect of the service of the appellant as well, who, at that time, was working as CEO, Janpad Panchayat, Pendra, District Bilaspur, who came to be transferred to the post of CEO at Janpad Panchayat, Kartala, Distt. Korba, the post which was being occupied by the writ petitioner earlier. The transfer of the writ petitioner was sought to be challenged mainly contending that, it was issued during the 'ban period' and that there was no appropriate authority to have issued it at that point of time; besides, contending that there was no post in the office to which the writ petitioner was transferred and hence it was liable to be interdicted. The matter was considered by the learned Single Judge who disposed of the writ petition at the admission stage itself, referring to the nature of contentions raised by the writ petitioner and setting him at liberty to file representation; giving simultaneous direction to have the same considered and disposed of within the time stipulated therein. The learned Single Judge also granted an interim stay, till the matter was finalized as above.
4. The learned counsel for the appellant points out that, pursuant to Annexure P-1 order, the appellant was relieved from the post of CEO, Janpad Panchayat, Pendra, Distt. Bilaspur on 04-10-2019 and he joined the post at the transferred place on 09-10-2019. It was thereafter, that the appellant came to know that the 3rd respondent/writ petitioner had moved this Court and obtained a stay with regard to the transfer as far as he has concerned, till the representation preferred by him was finalized. By virtue of the said position, the appellant was constrained to move the learned Single Judge by filing MCC No.

956/2019 seeking review. It was pointed out that, insofar as the transfer order was issued with the consent of the Chief Minister, in terms of the relevant norms which provided that even during the ban period, if administrative exigency required, transfer was possible with the consent of the Chief Minister. This aspect as to the consent obtained from the Hon'ble Chief Minister was clearly recorded in Annexure P-1 order itself, which was never brought to the notice of the learned Single Judge, which resulted in granting interim order of stay. The learned counsel submits that, post is available at the transferred place and the version of the writ petitioner to the contrary is not correct. However, the MCC was disposed of as per the order dated 23-10-2019 by the learned Single Judge, without much deliberation; which made the appellant to approach this Court by way of present appeal.

5. When the matter came up for consideration before this Court on the last occasion, it was pointed out by the learned counsel for the appellant that the appellant was not getting salary for the past two months. Had the position with reference to filing of the writ petition was brought to the notice of the appellant, he would not have been got relieved from the post occupied by him before the transfer. He has only complied with the direction as per the transfer order and was permitted to join at the transferred place; but is remaining there without any salary. Instructions were sought for with reference to the above factual aspects.
6. Today, when the matter is taken up for consideration, the learned Deputy Government Advocate representing the State submits that the matter was examined by the authorities concerned and an order was passed on 11-11-2019, whereby salary has caused to be released to the appellant and that the same would be given effect to forthwith. The learned counsel further submits that the competent authority is ready to consider the representation preferred by the writ petitioner with reference to the plea set up in the

representation and also the contentions raised in this appeal; adding that the final order will be passed within 3 weeks from today.

7. The appeal stands disposed of, directing the competent authority to finalize the proceedings as aforesaid within 3 weeks by passing appropriate order in this regard in accordance with law.

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

Sd/-
(Parth Prateem Sahu)
Judge