

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 9802 of 2019

Laxman Lal Sharaf S/o Shri Jeevan Lal Sharaf, Aged About 57 Years
Working As Block Education Officer, And Posted At Block Education
Akaltara, District Janjgir Champa Chhattisgarh.
--- **Petitioner**

Versus

1. State of Chhattisgarh through Secretary, Department of School Education, Mahanadi Bhawan, Mantralaya, New Raipur, District Raipur Chhattisgarh,
 2. District Education Officer, Janjgir Champa, District Janjgir Champa Chhattisgarh.
- **Respondents**

For the Petitioner	: Mr. Ajay Shrivastava, Advocate
For the Respondents	: Mr. Avinash Singh, Panel Lawyer.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

26.11.2019

1. This is second round of litigation. Learned counsel for the petitioner submits that earlier the petitioner was transferred from the Office of Block Education Officer, Akaltara, Distt. Janjgir Champa to the Govt. High School, Saplawra, Block Pali, District Korba vide order dated 22.08.2019 which was under challenge in first round of litigation i.e., WPS No. 6778 of 2019.
2. It is contended that in earlier round of litigation, the petitioner has urged the medical ground that he was a paralytic patient and was undergoing treatment at the present place of posting and considering his health condition, he was posted at the present place of posting on

13.12.2018. It is therefore, contended that no post is vacant at the place of posting where the petitioner has been transferred.

3. Earlier, In WPS No6778/2019 this Court has passed the following order by order dated 30th August, 2019 :

“2. The contention of the petitioner is that the petitioner is paralytic patient and is undergoing treatment at the present place of posting since long. He further submits that it was considering his health condition that the respondents have posted the petitioner at the present place vide order dated Annexure P-2 dated 13.12.2018 and now the petitioner would face great inconvenience so far as his health is concerned, if the fresh order of transfer is acted upon.

3. Considering the facts and circumstances of the case, let the petitioner make a detailed representation to the respondent within a period of 10 days from the date of receipt of the copy of this order and the respondents in turn shall consider and decide the same within a further period of 45 days from the date of receipt of the representation.

4. Till the representation of the petitioner is decided, the effect and operation of the impugned order shall remain stayed.

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

4. It is contended that thereafter the representation having been filed, the same has not been decided properly and only by single line order the representation has been dismissed vide Annexure P-1 without assigning any reason
5. Perused the documents. The petitioner prays for cancellation of transfer on the basis of medical document. The Letter (Annex. P-9) which has been filed by the petitioner shows that he is undergoing treatment at Rama Krishna Care Hospital Raipur. The issue as to

whether he is posted at Pali or at Janjgir will hardly make any difference with the transfer as the petitioner can very well avail the treatment even if he is posted to the place of transfer.

6. Transfer which is an incidence of service is not to be interfered with by Courts unless it is shown to be clearly arbitrary or visited by mala-fide or infraction of any prescribed norms of principles governing the policy of transfer. Further it is prerogative of the State to decide as to what nature of work is to be obtained from the petitioner and the petitioner himself cannot decide the fact that he will discharge a particular job at a particular place. Therefore, I am not inclined to interfere with the order whereby the representation of the petitioner has been rejected. Accordingly, this writ petition is dismissed.

Sd/-
(GOUTAM BHADURI)
JUDGE