

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 10319 of 2019**

- Alok Pandey, S/o R.B. Pandey, Aged About 39 Years Currently Working As Assistant Grade-II In The Office Of District Programme Officer Women And Child Welfare, District Korba, R/o Jail Road Mohlainhata, Ward No. 8, Katghora, District Korba, Chhattisgarh. **---- Petitioner**

Versus

1. State Of Chhattigarh, Through The Secretary, Department Of Women And Child Welfare, Mantralaya, Mahanadi Bhawan, Atal Nagar, Nawa Raipur, District Raipur, Chhattisgarh.
2. Commissioner Department Of Women And Child Welfare, Atal Nagar, Nawa Raipur, District Raipur, Chhattisgarh.
3. Collector Korba District Korba, Chhattisgarh.
4. District Programme Officer/District Women And Child Welfare Officer, Korba, District Korba, Chhattisgarh. **---- Respondents**

For Petitioner : Shri Ashutosh Pandey, Advocate

For Respondents/ State : Shri Neeraj Pradhan, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****09/12/2019**

1. Heard.
2. This is second round of litigation. The petitioner was transferred from Office of District Women Child Welfare Department, District Korba to Integrated Child Development Programme Narharpur, District Kanker. This was subject of challenge in the WPS No. 6805 of 2019 where in this Court on 30.08.2019 passed the following orders:-

1. The challenge in the present Writ Petition is to the order of transfer Annexure P-1 dated 21.08.2019, whereby the petitioner has been transferred from Korba to Kanker.

2. The contention of the petitioner is that for the last 12 years the petitioner has been working in a Scheduled Area and now again is being sent to a Scheduled Area contrary to the transfer policy of the State Government.

3. Considering the aforesaid facts and also taking

note of the transfer policy so far as transferring a person from One scheduled Area to another Scheduled Area is concerned, let petitioner make a detailed representation to the respondents within period of 10 days today and respondents in turn shall decide the same within a period of 30 days from the date of receipt of copy of this order.

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

5. With the aforesaid observations, the present Writ Petition stands disposed off.

3. Learned counsel for the petitioner submits that thereafter the representation of the petitioner was decided without any reasoning and without considering the grounds which were raised by the petitioner. He refers to document Annexure P-7 dated 30.09.2019 written by the District Programme Officer, women and Child Development and would submit that the petitioner is required at Korba under certain circumstances. Therefore, the representation filed by the petitioner may be considered a fresh in light of recommendation made by the District Programme Officer.
4. Perused the earlier order of the High Court dated 30.08.2019 where it was categorically observed that when the petitioner has already worked in a Scheduled area, therefore, his transfer to another Scheduled area may be considered. The representation at Page-29 shows that specific grounds were raised by the petitioner about place of posting along with the fact that wife of the petitioner is also in the government job, therefore, according to the transfer policy normally husband and wife should be kept at one place. When the representation is read along with earlier order of this Court, it appears that while dismissal order of the representation is passed, the facts raised in representation and covered by earlier order of this Court were not considered. Therefore, in the light of the fact that the petitioner has claimed that he has been working at scheduled area and again he has been sent to another scheduled area, along with the grounds raised in the representation a fresh and a speaking order may be passed.
5. The Supreme Court in the case of ***Secretary and Curator, Victoria Memorial Hall Versus Howrah Ganatantrik Nagrik Samity and others***

{{(2010) 3 SCC 732}} has held thus in para 41 & 42 which are reproduced herein below:-

41. Reason is the heartbeat of every conclusion. It introduces clarity in an order and without the same, it becomes lifeless. Reasons substitute subjectivity by objectivity. Absence of reasons renders the order indefensible/unsustainable particularly when the order is subject to further challenge before a higher forum. [Vide Raj Kishore Jha Vs. State of Bihar AIR 2003 SC 4664; Vishnu Dev Sharma Vs. State of U P (2008) 3 SCC 172; SAIL Vs. STO (2008) 9 SCC 407; State of Uttaranchal Vs. Sunil Kumar Singh Negi AIR 2008 SC 2026; U.P.S.R.T.C. Vs. Jagdish Prasad Gupta AIR 2009 SC 2328; Ram Phal Vs. State of Haryana (2009) 3 SCC 258; Mohd Yusuf Vs. Faij Mohammad (2009) 3 SCC 513; and State of H P Vs. Sada Ram (2009) 4 SCC 422].

42. Thus, it is evident that the recording of reasons is principle of natural justice and every judicial order must be supported by reasons recorded in writing. It ensures transparency and fairness in decision making. The person who is adversely affected may know, as to why his application has been rejected.

6. The concern authority shall also consider the latest recommendation made by the Respondent No. 4 District Programme Officer by letter dated 30.09.2019 (Annexure P-7). However, the petitioner shall be at liberty to file a fresh representation before the concern authority along with the recommendation letter (Annexure P-7) within a period of 15 days from today, thereafter, the concern authority shall decide the representation within a further period of 45 days from the date of receipt of a copy of this order.
7. In the meanwhile, till the representation of petitioner is decided the transfer order of the petitioner is stayed, if it has not been acted upon.
8. Accordingly, the petition stands disposed of.

Sd/-

Goutam Bhaduri
Judge