

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 587 of 2019**

(Arising out of order dated 27.11.2019 passed in Writ Petition (S) No.9788 of 2019 by the learned Single Judge)

R.S. Rathore S/o A.R. Rathore Aged About 55 Years Posted As District Project Officer, District Public Education Committee, Bilaspur, District-Bilaspur, Chhattisgarh.

---- Appellant**Versus**

1. State of Chhattisgarh Through Secretary School Education Department.
2. Director Cum Member Secretary State Mission Authority, Shiksha Bhawan, 1st Floor, Pension Bada, Raipur, Chhattisgarh.
3. District Education Officer Bilaspur, Chhattisgarh.
4. Jitendra Kumar Patle (Lecturer) Panchayat, Government Boys Higher Secondary School, Block Masturi, Bilaspur, Chhattisgarh.

---- Respondents

For Appellant	:	Shri Anoop Majumdar, Advocate
For State/Respondent	:	Shri Ghanshyam Patel, Govt. Advocate

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice**Hon'ble Shri Parth Prateem Sahu, Judge****Judgement on Board****Parth Prateem Sahu, Judge****10.12.2019**

1. Declining to interfere with the order of posting of the Appellant after his repatriation from deputation by the learned Single Judge is made to challenge in this writ appeal.
2. Brief facts of the case are, that the, the District Education Officer, Bilaspur (in short 'DEO') vide order dated 08.11.2019 has directed the Appellant to handover the charge to one Shri Jitendra Kumar Patle (Lecturer),

Government Higher Secondary School, Pachpedi, Block Masturi, Bilaspur and to join his original place of posting i.e. Government Higher Secondary School V.D.K.P. Kota, Block Kota, District Bilaspur. The said order has been issued in pursuance to the order dated 05.11.2019 issued by the Directorate State Saksharta Mission Pradhikaran, Pension Bada, Raipur.

3. The order dated 08.11.2019 passed by the DEO, Bilaspur was challenged by the Appellant/writ Petitioner in the writ petition before the learned Single Judge on the ground that the DEO is not an employer of the writ Petitioner; DEO is not a competent authority to issue order of place of posting of Appellant after his repatriation and the order of posting after repatriation is to be passed by the competent authority. The other ground which has been mentioned in the writ petition is that the writ Petitioner was working as District Project Co-ordinator under Rajiv Gandhi Shiksha Mission on deputation and he has been sent on deputation while he was working as Lecturer (Maths) at Government Nagorao High School, Juna Bilaspur, District Bilaspur, which is his original school, but in the order, it is mentioned as original school Government Higher Secondary School V.D.K.P. Kota, Block Kota, District Bilaspur.
4. The learned Single Judge after taking into consideration the relevant documents annexed with the writ petition, arrived at a finding that the writ Petitioner/Appellant has failed to produce any document showing that he has not been sent on deputation from Government Higher Secondary School V.D.K.P. Kota, Block Kota, District Bilaspur, but from other school, and dismissed the writ petition by observing that no order can be passed on inference and presumption.

5. Learned counsel appearing for the Appellant submits that inadvertently, initial order of his deputation could not be placed on record in writ petition, but the said order dated 29.06.2009, which is the first order passed by the School Education Department, Government of Chhattisgarh, by which, he has been sent on deputation from Government Nagorao High School, Juna Bilaspur to the post of Assistant Project Co-ordinator, Rajiv Gandhi Shiksha Mission, Bilaspur is placed on record as Annexure A/2 in the writ appeal, and his name finds place at Sl. No.17, therefore, order dated 08.11.2019 (Annexure P/1 in the writ petition) passed by the DEO, Bilaspur sending him to join his original place of posting at Government Higher Secondary School V.D.K.P. Kota, Block Kota, District Bilaspur is erroneous. He further submits that at the time when he was transferred/sent on deputation was not posted at school at Kota. He also submits that the order of posting after repatriation has not been passed by the competent authority under the law as he has been sent on deputation by the appointing authority and not by the DEO.
6. Per contra, learned counsel appearing for the State/Respondents No.1 to 3 submits that looking to the order dated 29.06.2009 (Annexure A/2 in the writ appeal), which is the order of transfer on deputation, showing the original place of posting of the Appellant as Lecturer (Maths), Government Nagorao High School, Juna Bilaspur and he has been transferred to the post of Assistant Project Co-ordinator, Rajiv Gandhi Shiksha Mission, Bilaspur whereas the place of posting mentioned in the order dated 08.11.2019 (Annexure P/1 in the writ petition), after repatriation is not the original school. He also submits that the Appellant has not approached the authorities, but has directly filed petition before this Court.

7. We have heard learned counsel appearing for the parties and perused the orders dated 08.11.2019 (Annexure P/1 in the writ petition) and 29.06.2009 (A/2 in the writ appeal).
8. Annexure P/1 in the writ petition, is passed by the office of DEO, Bilaspur mentioning the place of posting after repatriation of the Appellant, wherein the original place of posting has been mentioned to join as Government Higher Secondary School V.D.K.P. Kota, Block Kota, District Bilaspur, but perusal of Annexure A/2, which is filed along with memo of appeal, very specifically mentions that the Appellant has been sent on deputation from Government Nagorao High School, Juna Bilaspur, therefore, the posting after repatriation is to be made to the original place of posting from where an employee is sent on deputation and that too by the competent authority.
9. In the case at hand, Annexure P/1, though mentions the original school, but the name of place of school as mentioned in Annexure P/1 cannot be said to be original school in presence of Annexure A/2, which is order of transfer to other Department i.e. Rajiv Gandhi Shiksha Mission dated 29.06.2009.
10. In view of the above, so far as it relates to the posting of Appellant to Government Higher Secondary School V.D.K.P. Kota, Block Kota, District Bilaspur mentioned in Annexure P/1 is set aside. We direct the competent Respondent authorities to pass an appropriate order for posting of the Appellant in accordance with law after taking into consideration the order dated 29.06.2009 (Annexure A/2) within a period of two weeks.
11. At this stage, learned counsel for the Appellant submits that till fresh order

of his posting is passed, he may be permitted to continue on the post, on which, he was working prior to the issuance of the order Annexure P/1 as on date he is working on the said post.

- 12.** This submission of the learned counsel for the Appellant is vehemently opposed by the learned counsel for the State stating that, the order Annexure P/1 itself clearly mentions that Respondent No.4 has joined the post, in which, the Appellant was working.
- 13.** Be that as it may, looking to the facts and circumstances of the case, it is directed to maintain status quo as it exists today till the date of passing fresh order of posting of the Appellant by the competent authority as directed above.
- 14.** With the aforementioned directions/observations, writ appeal is disposed off.

Sd/-

(P.R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge