

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 10550 of 2019

- Uttam Kumar Tikariha S/o Shri Jitendranath Tikariha Aged About 61 Years Posted And Working As Development Extension Officer, Janpad Panchayat, Dhamdha, District Durg, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Panchayat And Rural Development Mantralaya, Mahanadi Bhawan, Atal Nagar, Nawa Raipur, District Raipur, Chhattisgarh.
2. Development Commissioner Department Of Panchayat And Rural Development, Indrawati Bhawan, Atal Nagar, Nawa Raipur, District Raipur, Chhattisgarh.

---- Respondents

For Petitioner	:	Shri Shashank Thakur, Advocate
For Respondents/ State	:	Ms. Akanksha Jain, Dy. Government Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

12/12/2019

Heard.

1. This is second round of litigation. The petitioner was transferred from Damdha, Durg to Bijapur, District Bijapur. This was subject of challenge in the WPS No. 6986 of 2019 where in this Court on 09.09.2019 passed the following orders:-

1. Challenge in the present writ petition is to the order of transfer dated 22.08.2019 whereby the petitioner has been transferred from Damdha, Durg to Bijapur, District Bijapur.
2. The contention of the petitioner is that, the petitioner has got only 14 months left for retirement. The second ground raised by the petitioner is that, the petitioner is more than 60 years of age and that

as per the transfer policy a person with more than 55 years of age should not be sent to a scheduled area and core scheduled area whereas, vide the impugned order the petitioner is being sent to a core scheduled area which is violative of transfer policy.

3. Given the aforesaid facts, let the petitioner make a detailed representation in this regard to the respondents within a period of 10 day from today, and the respondents, in turn, shall consider and decide the same at the earliest preferably within a further period of 45 days. Till the representation of the petitioner is decided, the effect and operation of the impugned order so far as petitioner is concerned, shall remain stayed.

4. The writ petition accordingly stands disposed of.

2. Learned counsel for the petitioner submits that as per Clause 1.5 of the transfer policy the person who is more than 55 years should not be transferred to core Scheduled area and Bijapur is a core scheduled area, therefore, the transfer of the petitioner to Bijapur would be against the transfer policy.
3. Learned State counsel opposes the argument and submits that only ground raised by the petitioner in the representation was that he is left with 14 months of retirement and on that basis the representation is decided.
4. Perused the document and prima facie it appears that at present the petitioner is left with less than 1 year of service and as per Clause 1.5 of the transfer policy the person more than 55 years should not be transferred to core Scheduled area. Considering the same and the representation which has been dismissed by the respondent, the same fact i.e. transfer to the core scheduled area of the person more than 55 years has not been properly discussed, further more at present the petitioner is left with nearly 10 months of service. Taking into the fact, under the circumstances, it is directed that the issue is remitted back to the officer who has decided the representation dated 28.11.2019 and shall reconsider the transfer of the petitioner in terms of the Clause 1.5 of the transfer policy as also the present

existing age of the petitioner from the date when the representation is decided. The said representation shall be decided within a period of 60 days, till then the transfer of the petitioner may not be given effect to.

5. With the aforesaid observation, the petition is disposed of.

Sd/-

Goutam Bhaduri
Judge

Jyoti