

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 10726 of 2019

S. K. Dwivedi S/o Shri Sheshmani Dwivedi, Aged About 61 Years Assistant Fisheries Officer, In The Office Of Assistant Director, Fisheries, District - Korla, Civil And Revenue District : Koriya (Baikunthpur), Chhattisgarh

---- Petitioner

Versus

1. State of Chhattisgarh through Secretary, Agriculture (Fisheries) Department, Mahanadi Bhavan, Mantralay, New Raipur Chhattisgarh., District : Raipur, Chhattisgarh
2. The Director, Fisheries, Indrawati Bhavan, 4th Floor, New Raipur District : Raipur, Chhattisgarh
3. The Assistant Director, Fisheries, District - Korla District : Koriya (Baikunthpur), Chhattisgarh

--- Respondents

For the Petitioner : Mr. M.K. Sinha, Advocate

For the State/Respondents : Ms. Akanksha Jain, Dy. Govt. Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

17-12-2019

1. The grievance of the petitioner is that the petitioner has been transferred from the office of Assistant Director, Fisheries, Distt. Korla to the Office of Deputy Director, Fisheries, Distt. Ambikapur on his own request. The same was subject of challenge in WPS No.6666 of 2019 wherein this Court on 29.08.2019 passed the following orders :

“1. The Challenge in the present writ petition is to the order)Annexure P-1 dated 23.08.2019 whereby the petitioner has been transferred from the Office of assistant Director, Fisheries, Distt. Korla to the Office of the Deputy Director, Fisheries, Distt. Ambikapur. The impugend order shows that the petitioner has been transferred at his own request whereas

the petition has never made such request to the department.

2. The other ground of the petitioner as raised is that the petitioner has got only one year service left for his retirement as is evident from Annexure P-2 dated 18.01.2019 issued by the department.

3. Given the aforesaid facts, let the Petitioner make a detailed representation to the respondents in this regard within a period of 10 days and respondents in turn shall take a decision within a period of 45 days.

4. Till the representation is decided, there shall be a stay of effect and operation of the order so far as the petitioner is concerned, subject to the verification of the aforesaid fact."

2. It is contended that though the petitioner has made representation that he has not made any application for transfer but that point was not dealt with by respondent Secretary and at present the petitioner is only left with service of less than one year year as would be evident from Annexure P-2 which was issued on 18.01.2019.
3. Perused the document i.e., the rejection of representation dated 29.11.2019. The fact still remains that the ground raised by the petitioner that he did not make any application for his transfer has not been adjudicated. The representation has been dismissed only on the ground that for retirement of the petitioner, more than one year is left, therefore, the transfer can be made. If the petitioner has not made any application for transfer of his own then in such a case, the transfer of the petitioner on the ground that he did not make the application for transfer would be a factual aspect, which requires to be gone into and such aspect cannot casually be handled. In view of this, the matter is remitted back to the Secretary, Respondent No.1 herein, to again adjudicate the representation of the petitioner.
4. The petitioner shall also be at liberty to raise the ground in view of the

changing circumstances on account of Annexure P-2 wherein the date of superannuation of the petitioner was shown as 30.11.2019 and by that date, it appears that apparently less than one year of service is left. The said representation may be decided within a further period of 45 days from the date of receipt of this order. In the meanwhile, transfer order of the petitioner may not be given effect to.

5. This writ petition accordingly stands disposed of.

**Sd/-
GOUTAM BHADURI
JUDGE**

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