

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WRIT PETITION (S) NO. 6841 OF 2011**

- C.K. Dubey, S/o Shri G.P. Dubey, Head Master, Amlidih, age 52 years, Tahsil Gharghoda, District Raigarh (CG)

... Petitioner**versus**

1. State of Chhattisgarh, through Secretary, Tribal Welfare Department, DKS Bhawan, Raipur, District Raipur (CG)
2. Assistant Commissioner, Tribal Welfare Department, Raigarh, District Raigarh (CG)
3. Block Education Officer, Gharghoda, District Raigarh (CG)

... Respondents

For Petitioner	:	Mr. Vinod Deshmukh, Advocate.
For Respondent-State	:	Mr. Anshuman Shrivastava, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****20/01/2020**

1. Challenge in the present writ petition is to the order dated 1.10.2011 (Annexure P-1) passed by the Assistant Commissioner, Tribal Development, District Raigarh.
2. Vide the said order dated 1.10.2011, the respondents have cancelled the promotion order issued in favour of the petitioner vide order dated 7.10.2008 (Annexure P-2).
3. Perusal of record would show that the petitioner has an interim order in his favour from the beginning, that is from 22.11.2011 onwards.
4. It is the contention of the learned counsel for the petitioner that by virtue of the said interim protection, the petitioner continued to discharge his duties of a Headmaster.
5. Brief facts of the case are that the petitioner was working as a Upper Division Teacher till 7.10.2008. Vide Annexure P-2, dated 7.10.2008, the petitioner and many other similar situated persons were promoted from the post of Upper Division Teacher to Head Master. Though the said order was passed on 7.10.2008, the Block Education Officer, Gharghoda vide his order dated 14.1.2009 (Annexure P-3) directed the authorities not to release the petitioner till the then academic session. Subsequently, the Assistant Commissioner, Tribal

Development, Raigarh vide his order dated 21.6.2010 (Annexure P-4) changed the place of posting of the petitioner and instead of the place i.e. Bhalumar under Block Gharghoda where the petitioner was transferred vide the promotion order dated 7.10.2008, the petitioner was posted to the Middle School at Amlidih under Block Gharghoda itself which is the place where the petitioner was already discharging his duties and on the said post the petitioner gave his joining on 22.6.2010 vide Annexure P-6. However, without further verification of the facts, abruptly the impugned order dated 1.10.2011 (Annexure P-1) has been issued.

6. According to the learned counsel for the petitioner, right from the time the petitioner gave his joining on 22.6.2010 he has been discharging his duties as a Head Master at Amlidih itself. This fact has not been properly verified by the State authorities before issuance of the impugned order dated 1.10.2011 and therefore the same is bad as the order of promotion has been duly complied with.

7. Given the aforesaid factual matrix of the case, particularly taking note of the order passed by the Block Education Officer, Gharghoda, dated 14.1.2009 (Annexure P-3) and the order of the Assistant Commissioner, Tribal Development, Raigarh, dated 21.6.2010 (Annexure P-4) modifying the place of posting of the petitioner, this Court is of the opinion that the petitioner cannot be found fault with for having not joined at the transferred place of Bhalumar under Block Gharghoda as the Block Education Officer, Gharghoda himself had restrained the petitioner from being relieved and thereafter the authorities themselves have modified the place of posting and at the modified place of posting the petitioner promptly assumed his duties vide Annexure P-6, dated 22.6.2010.

8. Under the circumstances, this Court is of the view that the impugned order dated 1.10.2011 (Annexure P-1) so far as the petitioner is concerned stands set aside/quashed. As a consequence, the petitioner would be treated to be joined at the promoted place with effect from 22.6.2010 onwards.

9. Allowing of the present writ petition would not preclude the State authorities to take appropriate administrative action after due verification of facts in accordance with law.

10. The writ petition stands allowed and is disposed of accordingly.

/sharad/

Sd/-
(P. Sam Koshy)
JUDGE