

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 284 of 2020

Sunil Dewangan S/o Late Shri Satyanarayan Dewangan Aged
About 56 Years Working As Village Agriculture Extension Officer, At
Office Of The Senior Agriculture Development Officer, Block
Dhamtari, District Dhamtari Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Department Of
Agriculture Development Of Farmer Welfare And Bio-Technology
Department, Mantralaya, Mahanadi Bhawan, Atal Nagar Naya
Raipur District Raipur Chhattisgarh
2. Director, Directorate Chhattisgarh Agriculture Department, Naya
Raipur Atal Nagar, District Raipur Chhattisgarh,
3. Deputy Director Agriculture Department, District Dhamtari,
Chhattisgarh
4. Deputy Director Agriculture Department, District Kondagaon
Chhattisgarh,

----Respondents

For petitioner- Shri R.S. Patel, Advocate.
For State-Shri Ravish Verma, G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order

29/01/2020

Heard.

1. This is second round of litigation. The petitioner was transferred from Dhamtari to Kondagaon which was subject of challenge in WPS No.7893/2019 wherein this court on 25/09/2019 has passed the following order:-

“1. The challenge in the present writ petition is to the order of transfer dated 22.08.2019 passed by the respondents transferring the petitioner from Dhamtari to Kondagaon.

2. Contention of the petitioner is that the petitioner has already worked in the past for a period of 10 years at district Kondagaon from 1988-1998. The petitioner thereafter worked in the different scheduled area and after that for last couple of years, he has been

working at Dhamtari. Now he is again being transferred to a scheduled area i.e. Kondagaon where he has already worked for 10 years in the past. Second ground of challenge is that the petitioner is already more than 55 years of age and as per the scheduled area policy itself, the persons with more than 55 years of age should not be posted to a scheduled area as far as possible.

3. Given the said facts, let petitioner make a detailed representation to the respondent No.1 within a period of 10 days, who in turn shall decide the representation of the petitioner within a period of 45 days. However, while deciding the representation they shall be at liberty to consider transferring the petitioner in any other area other than Kondagaon where he has already worked.

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

5. With the aforesaid observations, the writ petition stands disposed of.”

2. Learned counsel for the petitioner would submit that the petitioner has spent more than 10 years in the schedule area and as per the policy of the State, the person who were not posted in the schedule area or who were posted for a very short period of time in schedule area, they should be preferred to be posted in the schedule area. It is stated that the petitioner has already spent more than 10 years in the schedule area, therefore he should have been exempted. Apart from that the petitioner has attained more than 55 years of age and therefore as per clause 1.5 of transfer policy the petitioner should not be posted in the core schedule area. It is stated that however representation when was filed same has been dismissed by order dated 16/12/2019 (Annexure P-1), therefore while deciding the representation the State has failed to take into account the grounds raised by the petitioner. He also submits that on the basis of the map that though the Kondagaon is a schedule area, however the petitioner being a Village Agriculture Extension Officer part of the area of the Kondagaon will fall into core schedule area, therefore he should be given the benefit of transfer policy clause 1.5 as he is more than 55 years.

3. Perused the documents. The representation has been dismissed by the State. On the outset I do not find any plausible reason to interfere as transfer is incident of service, unless and until it is malafide or illegal normally interference in transfer is uncalled for.

4. Considering the fact that the petitioner has stated that he has already served more than 10 years in the schedule area and it is expected that the persons who were not posted in the schedule area should be given the preference instead of the person who has spent considerable time in the schedule area, therefore the petitioner may make a suitable representation to the respondent No.1 Secretary which may be decided taking into the service rendered by the petitioner in the schedule area. The petitioner shall be at liberty to place all the documents alongwith the representation.

5. With such observation, the petition stands disposed of.

Sd/-

(Goutam Bhaduri)

JUDGE