

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****WPS No. 370 of 2020**

- T N Awasariya S/o Late Sukhdev Awasariya, Aged About 58 Years  
Occupation - Service, Presently Posted As Assistant Grade - III, Janpad Panchayat - Abhanpur, Police Station - Abhanpur, District - Raipur Chhattisgarh.

**---- Petitioner****Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Panchayat And Rural Development, Mahanadi Bhawan, Naya Raipur, District : Raipur, Chhattisgarh
2. Collector, Raipur, District : Raipur, Chhattisgarh
3. Chief Executive Officer, Janpad Panchayat, Abhanpur, District : Raipur, Chhattisgarh
4. Chief Executive Officer, Zila Panchayat, Raipur, District : Raipur, Chhattisgarh
5. Deputy Director, Panchayat, Directorate Of Panchayat, Indravati Bhawan, Atal Nagar, District : Raipur, Chhattisgarh

**---- Respondents**


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|------------------------|---|------------------------------|
| For Petitioner         | : | Shri Avinash Singh, Advocate |
| For Respondents/ State | : | Shri Kunal Das, P.L.         |

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**Hon'ble Shri Justice Goutam Bhaduri****Order On Board****24/01/2020**

1. The petitioner contends that the petitioner is working as Assistant Grade-III at Janpad Panchayat, Abhanpur and by order dated 30.11.2019 the petitioner has been attached with the office of Deputy Director Panchayat, Raipur. It is stated that the Chief Executive Officer, Zila Panchayat, do not

have any power to pass the order (Annexure P-1). He refers to the notification dated 11.12.2015 whereby the power initially was given to the CEO Zila Panchayat in Rule 27 of the Chhattisgarh Panchayat Service (Recruitment and General Conditions of Service) Rules, 1999, ( in short "Rules of 1999) has been withdrawn, therefore, for want of authority of the CEO Zila Panchayat, the order (Annexure P-1) is bad in law. The reference is also made to the judgment passed in WPS No. 2543 of 2017 on 23.10.2017.

2. Perusal of the notification dated 11.12.2015 No./P.-1141/PGVV/22/2015/786 the following amendment was carried out in the Rules, which reads as under:-

Naya Raipur, the 1st December 2015

No. /P.-1141/PGVV/22/2015/786.-- In exercise of the powers conferred by sub-section (2) of Section 70 of the Chhattisgarh Panchayat Raj Adhiniyam, 1993 (No. 1 of 1994), the State Government, hereby, makes the following further amendment in the Chhattisgarh Panchayat Service (Recruitment and General Conditions of Services) Rules, 1999, the same having been previously published as required by sub-section (3) of Section 95 of the said Act, namely:--

#### AMENDMENT

In the said rules,-

1. In clause (ii) of rule 27, for the colon ":", after the word "appointment", the full stop "." shall be substituted.
2. First and Second proviso of clause (ii) of rule 27 shall be omitted.

By order and in the name of the Governor of Chhattisgarh,

S.L. NAYAK, Joint Secretary.

3. Earlier to that in Rule 27 of 1999, the power was given to the CEO of the concern Zila Panchayat to transfer any employee from one Zila Panchayat to another within the district; provided that by the transfer seniority would not

be effected. The said amendment has been withdrawn in the year 2015, therefore, reading of Rule 27 of 1990 would show that the CEO Zila Panchayat is denuded of the power to exercise such order of transfer.

4. In a result, Annexure P-1 is set aside as the power to transfer has already been withdrawn by the State. The petition stands allowed, however, it is made clear that the competent authority would be at liberty to pass a fresh order, in accordance with law, depending upon the administrative exigency. No order as to costs.

Sd/-

Goutam Bhaduri  
Judge

Jyoti