

HIGH COURT OF CHHATTISGARH AT BILASPUR**W.P.(S) No. 1142 of 2020**

Dr. Phooldas Mahant, S/o. Ghurvin Das Mahant, Aged About 58 Years,
Assistant Professor (Hindi), Presently In-Charge Principal, Government
College, Jaijaipur, District- Janjgir-Champa, Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh, Through The Secretary, Department Of Higher Education, Government Of Chhattisgarh, Mahanadi Mantralaya, Naya Raipur, Atal Nagar, Post Office And Police Station - Naya Raipur, Atal Nagar, District- Raipur, Chhattisgarh.
2. Additional Director, Office Of The Commissioner, Directorate Of Higher Education, Block-C 2nd & 3rd Floor, Indrawati Bhawan, Atal Nagar Nawa Raipur, District- Raipur, Chhattisgarh.
3. Chairman, State Level Transfer Coordination Committee, Mantralaya, Naya Raipur, Atal Nagar, Post Office And Police Station Naya Raipur, Atal Nagar, District- Raipur, Chhattisgarh.
4. The Principal, Government College, Jaijaipur, District- Janjgir-Champa, Chhattisgarh.
5. K.L. Tandon, Assistant Professor, Government College, Bhaisma, District- Korba, Chhattisgarh.
6. A.P. Verma, In-Charge Principal, Government T.C.L.P.G. College, Janjgir, District- Janjgir-Champa, Chhattisgarh.

---- Respondents

For Petitioner : Mr. D.R.Patel, Advocate

For State : Ms. Richa Shukla, Dy. Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order on Board****20.02.2020**

1. This is the second round of litigation. Earlier the petitioner was transferred from Govt. College Jaijaipur, District Janjgir-Champa to Govt. College Bhaisma District Korba, which was subject of challenge before this Court in WPS No.6716 of 2019 wherein this Court by order dated 09.09.2019 has passed the following orders :

"1. The challenge in the present Writ Petition is to the order (Annexure-P/1) dated 21/08/2019 whereby the

services of the petitioner has been transferred from Government Jaijpur Distt. Janjgir-Champa to Government College Bhaisma, Distt. Korba.

2. The contention of the petitioner is that wife of the petitioner also was posted nearby Bilaspur, vide the order the wife of the petitioner is being sent to different district and the petitioner is being sent to an opposite direction too far a place. According to the petitioner, as per the transfer policy, the Respondents / State should ensure keeping husband and wife as far as possible at the same place or nearby place.

3. Given the aforesaid fact, let the petitioner's representation which he has made to the State Government to be considered on priority basis and consider accommodating the petitioner at the place where the wife of the petitioner has been transferred or on the contrary accommodating wife at the place where the petitioner has been transferred.

4. Let this exercise be done within a period of 30 days.

5. Till the representation is decided, there shall be a stay of effect and operation of the order so far as the petitioner is concerned shall remain stayed.

6. The writ petition accordingly stands disposed off."

2. Learned counsel for the petitioner would submit that the wife of the petitioner was also transferred from Govt. Navin Girls College Bilaspur to Govt. College Thankhamharia, District Bemetara, which was also subject of challenge before this Court in WPS No.6657 of 2019 wherein also the representation of the wife of the petitioner has been directed to be decided. Subsequently, on the application of the wife, her transfer to Thankhamharia, District Bemetarta has been canceled. However, in respect of the petitioner, his representation is dismissed by non-speaking order as according to the transfer policy, the husband and wife are to be placed at the same place has not been taken care of. Therefore, he

submits that since the order is non-speaking one, therefore, as per the ratio laid down in case of *Smt. Smita Shukla v. State of Chhattisgarh* passed on 26.11.2019 in WPS No.9441 of 2019, the representation of the order is required to be considered afresh.

3. State counsel opposes the argument and would submit that no substantial prejudice has been caused to the petitioner by the transfer.
4. Perusal of the record would show that earlier the petitioner was placed at Jaijaipur, District Janjgir-Champa and the wife of the petitioner was working at Govt. Navin Girls College Bilaspur. Therefore, in the earlier point of time too, the petitioner and his wife are not placed in the same place and on query it has been stated that the petitioner is posted at Jaijaipur, District Janjgir-Champa for last 5 years. Taking into such fact, nothing has been pointed out what serious prejudice has caused. Therefore, transfer being the incident of service, it is the State Government which would decide whether the particular person has to be placed or posted. Unless and until the transfer shock the conscience of Court for any reason of illegality or arbitrariness, normally the interference of the Court is not called for unless facts are shown otherwise. In view of this, I do not find any merit in this case to reconsider. Accordingly, the petition is dismissed.

Sd/-
(Goutam Bhaduri)
Judge