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**HIGH COURT OF CHHATTISGARH, BILASPUR****WA No. 242 of 2020**

(Arising out of the order dated 24.2.2020 passed by learned Single Judge in WPS No.1229/2020)

- Ram Pravesh Singh S/o Late Ram Nagina Singh, aged about 57 years Presently Posted As Head Clerk In The Office Of The Chief Medical And Health Officer, Ambikapur, District- Surguja, Chhattisgarh

**---- Appellant****Versus**

1. State of Chhattisgarh Through The Secretary, Department of Health & Family Welfare, Mahanadi Bhawan, Atal Nagar, Raipur, District Raipur, Chhattisgarh, District : Raipur, Chhattisgarh
2. Director, Health Services Indrawati Bhawan, Atal Nagar Nawa Raipur, District- Raipur, Chhattisgarh, District : Raipur, Chhattisgarh
3. Chief Medical And Health Officer Ambikapur, District- Surguja, Chhattisgarh, District : Surguja (Ambikapur), Chhattisgarh

**---- Respondents**


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| For Appellant   | : | Mr.Shashank Thakur, Advocate         |
| For Respondents | : | Mr. C. Shrivastava, Dy. Adv. General |

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**Hon'ble Shri P. R. Ramachandra Menon, CJ****Hon'ble Shri Parth Prateem Sahu, J****Order on Board****Per Parth Prateem Sahu, J****17.07.2020**

1. Challenge in this writ appeal is to the order dated 24.2.2020 passed by the learned Single Judge in WPS No.1229/2020 preferred against the order dated 3.2.2020 passed by respondent No.1 rejecting representation of petitioner / appellant.
2. Grievance of the petitioner/appellant is that ever since the date of his initial appointment, he has continued to remain posted in scheduled areas, and presently posted as 'Head Clerk' in the

District Hospital at Surguja. Vide order dated 23.8.2019 the petitioner / appellant was transferred from District Hospital, Surguja to District Jashpur on administrative ground. This transfer order was put to challenge by the petitioner/appellant before the High Court by filing writ petition bearing WPS No.7324/19, which came to be disposed off vide order dated 17.6.2019 with a direction to the authority competent to consider and decide the representation of petitioner/appellant within the period prescribed therein and till then the transfer of appellant was kept in abeyance. While disposing of the aforementioned writ petition, learned Single Judge has recorded the contention of appellant that petitioner/ appellant herein is more than 55 years of age and as per transfer policy of the State, an employee above the age of 55 years should not be transferred/posted in any scheduled area and that if the respondents intend to transfer petitioner/ appellant herein, they should transfer him to a non-scheduled area.

3. Pursuant to the order dated 17.6.2019, the petitioner/ appellant herein, through proper channel, submitted representation dated 24.9.2019 before the authority concerned, which was forwarded by the office of the Chief Medical & Health Officer, Ambikapur, District Surguja to respondent No.2-Director, Medical Health Services, Raipur for consideration. Respondent No.1 vide order dated 3.2.2020 dismissed the representation of petitioner/ appellant mentioning therein that the documents made available before him reveals that seniority of the employee like petitioner/ appellant is maintained at Division Level and as the petitioner

has been transferred within the same Division, his seniority will not be affected. Rectifying the typographical error crept in the transfer order dated 23.8.2019, whereby the place of posting of the petitioner has not been mentioned, respondent No.1 has dismissed the representation and ordered for posting of the petitioner in the office of the Chief Medical & Health Officer, District Jashpur.

4. Feeling aggrieved by rejection of representation, the petitioner has again approached the High Court by filing another writ petition bearing WPS No.1229/2020 and the learned Single Judge, after hearing the respective parties in the matter, has dismissed writ petition vide impugned order observing that the petitioner is posted in the District Hospital, Surguja for the last five years and he failed to point out any arbitrariness in the transfer order or order rejecting his representation against his transfer.
5. Mr. Thakur, learned counsel representing appellant would argue that from the date of entry into service, the petitioner has been continuously posted in the scheduled areas of the State of Chhattisgarh. In the first round of litigation challenging the transfer order dated 23.8.2019, the petitioner/appellant herein had raised a specific ground that Clause 1.5 of the Transfer Policy of the State, an employee, who has crossed the age of 55, should not be normally transferred/posted in the core scheduled areas and if transfer is necessary than he be transferred to non-scheduled area. Taking into consideration these submissions, the learned Single Judge while disposing off WPS

No.7624/2019, has observed that if at all the petitioner is required to be transferred on administrative exigency, he should be transferred to a non-scheduled area. However, the representation submitted by appellant against his transfer has been rejected by respondent No.1 ignoring the observation made by learned Single Judge in the order dated 17.9.2019 passed in WPS No.7624/2019. In such a situation, learned counsel submits that respondent No.1 may be directed to reconsider the case of appellant herein in the light of observation made by learned Single Judge in the aforementioned order. Learned Counsel submits that appellant has yet not been relived to join at the transferred place and he is still working in the District Hospital, Ambikapur.

6. Mr. Shrivastava, learned State Counsel vehemently opposes the submissions made by learned counsel for appellant and submits that Clause 1.5 of the Transfer Policy, which has been referred to and relied upon by learned counsel for appellant, is with regard to 'core scheduled areas', whereas Jashpur Division does not fall within the category of 'core scheduled areas', rather it comes within purview of 'normal scheduled areas'. The appellant is posted at his present place of posting for the last five years; he has been transferred on the ground of administrative exigency and there is no allegation regarding malafide exercise of powers while making transfer by respondent No.1. He further submits that respondent No.1 while considering representation of appellant has taken into consideration all the aspects of the matter and dismissed the representation by a speaking order

which does not call for any interference. However, he does not dispute the submission that appellant is still working in the District Hospital, Ambikapur.

7. We have heard learned counsel for the parties and perused the record.
8. There cannot be any dispute with regard to the law that the transfer is a normal incidence of service and a government employee working on a transferable post cannot claim, as a matter of right, that he should be retained in a particular post or at a particular place. Transfer Policy meant by the Government is not enforceable in law, but it is for the benefit of the employees, that is to say, to ensure that no body suffers from any inconvenience by prolonged posting at any inconvenient place etc. At the same time, the authorities concerned dealing with transfers of employees are required to consider guidelines framed by the State Government from time to time so that the government employees can discharge their duties with full sincerity, devotion and efficiency.
9. In the case at hand, for the last five years the appellant is working in District Hospital, Surguja and thus he comes within the zone of consideration for his transfer. Only submission made by learned counsel for appellant before this Court is that appellant has approached this Court with a limited prayer that looking to the fact that the petitioner has attained the age of 57 and he has worked only in the scheduled areas since the date of entering into service, therefore, he should not be transferred to a

scheduled area and for this purpose, a direction be issued to the respondents to consider the case of appellant afresh for his transfer and posting in any non-scheduled area.

10. Perusal of the order dated 3.2.2020 passed by respondent No.1 rejecting appellant's representation against his transfer, reveals that there is no discussion or consideration in specific term with regard to posting of appellant in non-scheduled area, as submitted by learned counsel for appellant before the learned Single Judge in first round of litigation and forming part of the order.
11. In the above circumstances, we dispose off this writ appeal with a direction to appellant to file fresh representation before respondent No.1 within four weeks from today, raising his grievance with respect to his posting in non-scheduled area, and in turn, respondent No.1 is directed to consider and decide the representation of appellant within a further period of four weeks from the date of receipt of representation, in accordance with law.
12. Till the representation of appellant is decided, the *status quo*, as exists today, with respect to posting of appellant shall be maintained by the parties.

Sd/-  
(P.R. Ramachandra Menon)  
Chief Justice

Sd/-  
(Parth Prateem Sahu)  
Judge

roshan/-