

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No.266 of 2020**

(Arising out of order dated 19.02.2020 passed by the learned Single Judge in WPS No. 1069 of 2020)

- Jaishri Namdeo W/o Shri Kaushal Namdeo Aged About 56 Years Working As Supervisor Women And Child Development Department, Posted At Office Of The Project Officer, Integrated Child Development Project, Seepat Block Masturi, District Bilaspur Chhattisgarh.

---- Appellant**Versus**

1. State Of Chhattisgarh Through The Secretary, Women And Child Development Department, Mahanadi Bhawan, Nava Raipur Atal Nagar, District Raipur Chhattisgarh.
2. Secretary General Administration Department & Chairman, Committee Of Senior Secretary / Transfer Committee, Mahanadi Bhawan, Nava Raipur Atal Nagar, District Raipur Chhattisgarh.
3. Commissioner Women And Child Development Department, Indravati Bhawan, Nava Raipur, Atal Nagar, District Raipur Chhattisgarh.
4. District Program Officer, Department Of Women And Child Development, District Bilaspur Chhattisgarh.
5. Project Officer Integrated Child Development Project, Seepat, Block Masturi, District Bilaspur Chhattisgarh

---Respondents

For the appellant : Shri Vikas Dubey, Advocate
 For the respondents/State : Shri Vikram Sharma, Deputy GA
 and Shri Siddharth Dubey, Deputy GA

Hon'ble Shri P.R. Ramachandra Menon, Chief Justice &**Hon'ble Shri Ram Prasanna Sharma, Justice****Judgment on Board****19.05.2020****Per P.R. Ramachandra Menon, CJ**

1. The grievance in this appeal is against the order dated, 19.02.2020 passed by learned Single Bench in WPS No.1069/2020 whereby the challenge raised the order dated 21.8.2019 transferring the appellant/petitioner from Seepat, Bilaspur to Ambikapur (Surguja), was

declined to be interfered, holding that transfer is an incidence of service and the writ petition was dismissed.

2. Heard the learned counsel for the appellant as well as the learned counsel representing the State. The facts reveal that the petitioner was serving as a Supervisor in the Department of Women and Child Development at Seepat, Masturi, Bilaspur and while so, as per order dated 21.8.2019 (Annexure P/3) she was transferred to Ambikapur. It is stated that the place to which the appellant was transferred is nearly 300 Km. away from the place where she was working. The appellant is stated as having several personal difficulties, particularly in connection with serious renal ailment of her husband and absence of any other to look after her family. This made the petitioner to file a representation dated 27.8.2019 (Annexure P/4) before the Secretary, General Administration Department, referring to these facts. The appellant approached this Court by filing WPS No. 8481/2019, which was disposed of as per order dated 16.10.2019 (Annexure P/7) directing the 'Secretary' to consider Annexure P/4 and pass appropriate order. It is stated that the matter was pending before the Secretary and the direction was not complied with.

3. The learned counsel for the appellant submits that the appellant had brought the grievance to the notice of the Secretary, Women and Child Development Department as well, by filing a representation dated 23.10.2019 (Annexure P/8). All of a sudden, Annexure P/1 was passed by the Department of Women and Child Development, whereby the representation was rejected which made the appellant to approach this Court again by filing Writ Petition (S) No.1069/2020 to quash the order by contending that the order passed by the Secretary, Department of Women and Child Development was not in conformity with the earlier

order passed by this Court vide Annexure P/7. The prayer was opposed from the part of the Government, referring to the law governing transfer. After hearing, interference was declined, which is under challenge in this appeal.

4. Heard both the sides.

5. The specific case projected by the appellant is that, the competent authority to redress the grievance regarding transfer as per the policy and guidelines issued by the Government is the 'Secretary' to the General Administration Department. It was accordingly, that the representation (Annexure P/4) was preferred before the said authority, which was directed to be considered, vide Annexure P/7. Instead of passing order by the said authority, the matter came to be dealt with by a different authority i.e. Secretary, Department of Women and Child Development, which is wrong and legal jurisdiction and hence under challenge, as this vital aspect was not considered by the learned Single Bench.

6. The learned counsel for the State submits that the matter has been considered and finalized by the Secretary, Department of Women and Child Development since the appellant herself, after passing Annexure P/7 verdict, had preferred Annexure P/8 representation dated 23.10.2019 before the Secretary, Department of Women and Child Development, referring to the issue/grievance projected in Annexure P/4.

7. It is a fact that the appellant had preferred a subsequent representation (Annexure P/8) before the Secretary, Department of Women and Child Development. It is also true that the Secretary, General Administration Department was never a party before this Court

in the earlier Writ Petition (S) No.8481/2019, where the respondent concerned was the Department of Women and Child Development. But the fact remains that the Secretary, General Administration Department was also brought in the party in the subsequent petition i.e. WPS No. 1069/2020, besides the Secretary, Department of Women and Child Development. The direction given by the learned Single Judge as per Annexure P/7 is very specific, insofar as the representation was directed to be considered and disposed of by the 'Secretary'. Though the Department of Women and Child Development was not mentioned and even though Secretary, Government Administration Department was not a party, it cannot be disputed that Annexure P/4 representation was preferred before the Secretary to the General Administration Department. In short, the direction given as per Annexure P/7 was to have the matter to be considered by the Secretary, General Administration Department before whom Annexure P/4 was pending. The question is whether this direction is complied with?

8. Admittedly, the order impugned (Annexure P/1) has been passed by Secretary, Department of Women and Child Development and not by the Secretary, General Administration Department, who is heading the Grievance Committee. So far as the direction by this Court was to the 'Secretary' to consider Annexure P/4, we are of the view that the matter has to be considered by the Secretary to the General Administration Department who is heading the Grievance Redressal Committee constituted by the Government to deal with transfers and postings.

9. In the above facts and circumstances, the order passed by the respondent (Annexure P/1) and the verdict passed in the writ petition

(WPS No.1069/2019) stand set aside. Annexure P/4 preferred by the appellant is directed to be considered and finalized by respondent No.2 passing appropriate orders in accordance with law, as expeditiously as possible, at any rate, within 'one month' from the date of receipt of a copy of this judgment.

10. In view of the above, the appeal stands disposed of. 'Status-quo' as on today shall continue till the matter is finalized as above.

Sd/-

(P.R. Ramachandra Menon)
Chief Justice

Sd/-

(Ram Prasanna Sharma)
Judge