

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Appeal No. 307 of 2020

*(Arising out of order dated 12.03.2020 passed by the learned Single Judge in
WP(S) No. 1658/2020)*

- Ku. Vijaya Singh, D/o Sahdev Singh, aged about 51 years, R/o Village – Devri Khurd, Near Satbahniya Mandir, Behind Church, District – Bilaspur (Chhattisgarh)

---- Appellants

Versus

1. State of Chhattisgarh, through the Secretary, Woman and Child Welfare Department, Mantralaya, Atal Nagar, New Raipur (Chhattisgarh)
2. The Under Secretary, Woman and Child Welfare Department, Mantralaya, Atal Nagar, New Raipur (Chhattisgarh)
3. Commissioner, Directorate, Woman and Child Welfare Department, Indrawati Bhawan, New Raipur (Chhattisgarh)
4. Collector, District – Janjgir-Champa (Chhattisgarh)
5. District Program Officer, Woman and Child Welfare Department, District Janjgir-Champa (C.G.)

---- Respondents

For Appellant : Shri Alok Pandey, Advocate
For Respondents/State : Shri Vikram Sharma, Deputy Government Advocate

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice

Hon'ble Shri Parth Prateem Sahu, Judge

Judgment on Board

Per, P. R. Ramachandra Menon, Chief Justice

13.07.2020

1. Interference declined by the learned Single Judge to interdict the order dated 08.11.2019, whereby the Appellant has been transferred from the work place in the District Janjgir-Champa to a place in the District Mahasamund, is put to challenge in this appeal.

2. Admittedly, this is the second round of litigation with reference to the transfer ordered by the Respondents. The Appellant was appointed as Supervisor in the Woman and Child Welfare Department as per Annexure-P/2 order dated 03.05.2010 and she joined the service in the Integrated Child Development Service (ICDS) Project, Surangpali, District Jashpur; which comes under a scheduled area. It is pointed out that the Appellant was subsequently transferred to the ICDS Centre Bamnindih, District Janjgir-Champa and was serving there from the year 2015. While so, Annexure-P/3 order was passed by the Respondent No.2 on 08.11.2019, whereby the Appellant was transferred to the ICDS Project Basna, District Mahasamund. Challenging the said transfer, the Appellant moved this Court by filing WPS No.10333/2019 with reference to the personal hardships and also as to alleged violation of some norms in the transfer policy. The said writ petition was disposed off as per Annexure-P/6 judgment dated 02.01.2020 with liberty to the Appellant / Writ Petitioner to file a fresh representation to the Additional Secretary, Govt. of Chhattisgarh, Women and Child Welfare Department, directing the same to be considered accordingly; simultaneously ordering the transfer order to be kept in abeyance till such time.
3. Pursuant to the said order, a fresh representation was preferred by the Appellant on 04.01.2020 as borne by Annexure-P/7, but it came to be rejected as per Annexure-P/1 order dated 12.03.2020, which was subjected to challenge in the second round of litigation by filing Writ

Petition (S) No.1658/2020. The learned Single Judge took note of the sequence of events and after hearing both the sides it was held that, the Appellant / Writ Petitioner was working at Janjgir-Champa since 2015 and that no legal ground was made out to interfere with the transfer order. It was also observed that the transfer being an incidence of service, it cannot be lightly interfered by the Courts unless it is shown to be clearly arbitrary or actuated by malafides or infraction of any prescribed norms of principles governing the policy of transfer which has caused serious prejudice. It was accordingly, that the writ petition was dismissed, correctness of which is questioned in this appeal.

4. We heard Shri Alok Pandey, the learned counsel appearing for the Appellant as well as Shri Vikram Sharma, the learned Deputy Government Advocate representing the State.
5. The learned counsel for the Appellant points out that the Appellant is an unmarried lady, who is living with her ailing septuagenarian parents. That apart, the sister of the Appellant / Writ Petitioner is stated as suffering from serious mental illness and reference is made to Annexure-P/5 treatment certificate in this regard. It is pointed out that the parents and sister are dependents of the Appellant / Writ Petitioner and the transfer to a distant place of more than 250 kms. away will adversely affect the rights and interest of all concerned; more so since, there is nobody else to look after the family, than the Appellant / Writ Petitioner. The learned counsel also submits that the contents of the

representation with reference to the norm / policy as to the transfer and posting in a 'schedule area' have not been properly considered while passing Annexure-P/1 order and hence there is total non-application of mind.

6. The learned counsel representing the State submits that Annexure-P/1 order has been passed by the Competent Authority after considering all the relevant aspects. It is pointed out that the Appellant, as correctly noted by the learned Single Judge, has been continuing in the District Janjgir-Champa for more than 'five' years and there is no vested right for the employee to seek for posting at a particular place and to continue forever.
7. The law is now well settled that transfer, which is an incidence of service, cannot be interfered by the Court unless the competency of the authority who has transferred the employee is under challenge or any legal provision is violated or else it is shown to be highly arbitrary and actuated by malafides. None of these instances has been demonstrated by the Appellant either in the Writ Petition or in the Memorandum of Appeal. This being the position, the observation made by the learned Single Judge that no tenable ground has been made out to interdict the transfer is not liable to be declared as wrong or unsustainable. Obviously, there is no plea of malafides and there no dispute with regard to the factual aspect that the Appellant has been continuing in the District Janjgir-Champa for nearly 'five' years. Similarly, the contention raised, that she is now being transferred is

more than 250 kms. away and there is nobody else to maintain the family consisting of old aged parents and ailing sister also does not persuade this Court to interdict the transfer for the plain reason that it is open for the Appellant / Writ Petitioner to move to the transferred place taking the parents and sister alongwith her, if so desired. We do not find any legally sustainable cause of action to interfere with the transfer. The verdict passed by the learned Single Judge is unassailable. The appeal fails. It is dismissed accordingly.

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

Sd/-
(Parth Prateem Sahu)
Judge