

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 3049 of 2020

- Santram Saxena S/o Shri Dheer Sai Saxena Aged About 48 Years Presently Working As Teacher (L.B.), Govt. Middle School, Mungway, Block Nawagarh, District Bemetara, Chhattisgarh ---- **Petitioner**

Versus

1. State Of Chhattisgarh Through The Secretary, Education Department, Mantralaya, Mahanadi Bhawan, Atal Nagar, Nawa Raipur, District Raipur, Chhattisgarh
2. Director, Directorate, Education Department, Indrawati Bhawan, Atal Nagar, Raipur, District Raipur, Chhattisgarh
3. District Education Officer, Bemetara, District Bemetara, Chhattisgarh,
4. Tahsildar, Nawagarh, District Bemetara, Chhattisgarh

---- **Respondents**

For Petitioner	:	Mr. C.J.K. Rao, Advocate
For State	:	Mrs. Richa Shukla, Dy. G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

10/08/2020

1. Heard
2. Learned counsel for the petitioner submits that the petitioner was initially transferred by an order dated 22.08.2019 from Government Middle School Mungway Block-Nawagarh Distt.-Bemetara(C.G.) to Government Middle School Andhrikachhar Block-Bodla Distt.-Kabirdham(C.G.) which was the subject of challenge in WPS No. 6804/2019 wherein this Court on 30.08.2019 passed a following order:-

“3. The fact is undisputed that the petitioner earlier was appointed under the Panchayat Department and

subsequently in the year 2018, the services of the petitioner has since been absorbed in the Education Department. Once when the petitioner has been absorbed in the services of the Education Department, it is the Rules and Regulation governing the Education Department which would govern the promotional avenues of the petitioner.

4. Merely, there being an inter-district transfer, would not adversely affect the seniority and promotional avenues of the petitioner. It is directed that the State Government would ensure that all those persons who were transferred on administrative exigency from their district would not lose their seniority and promotional avenues in any manner.

5. With the aforesaid direction, the present Writ Petition stands disposed off.”

3. Learned counsel for the petitioner submits that in the meanwhile, the petitioner had made a representation and another order was passed on 01.10.2019 whereby the place of transfer of the petitioner was changed to Government Middle School Dhumachhapar Block-Bodla Distt.-Kabirdham (C.G.). He further submits that thereafter the service of the petitioner was engaged in the election duty on 14.01.2020 (Annexure P/5) and subsequently, the petitioner's services had been availed for census by an order dated 03.03.2020 (Annexure P/6). Therefore, the petitioner at one place has been given the job in the census duty and on the other hand meanwhile, the representation of the petitioner with the transfer has been rejected which contradicts the place of discharge of work. It is further stated that the petitioner presently has not been relieved from his earlier place of posting i.e. Government Middle School

Mungway Block-Nawagarh Distt.-Bemetara(C.G.).

4. Learned State counsel would submit that in the earlier round of litigation, the direction was given by the Court that with the transfer of the petitioner to the other place their seniority would be maintained and this issue has already been answered. However in this writ petition, the petitioner is coming out with the ancilliary issues which are irrelevant.
5. I have heard learned counsel for the parties.
6. On the earlier round of litigation, the order would show that the issue revolved around in case of the inter-district transfer is whether their seniority would be affected. The rejection of the representation i.e. Annexure P/1 dated 25.06.2020 would show that this issue has been answered and it has been stated that the Bemetara and Kabirdham are in the same division i.e. Durg, therefore with the transfer from Bemetara to Kabirdham the seniority of the petitioner would not be affected. With respect to the assignment of duty in the census, it has nothing to do with the transfer of the petitioner because it is the separate and distinct duty which the petitioner has to discharge. If the petitioner has been transferred from one district to other and if it comes under the same division, then according to the State it would not affect the seniority, therefore, the apprehension of the petitioner that he would lose the seniority is answered.
7. It is well settled law that the transfer of a Government Servant appointed to a particular cadre of transferable post from one place to the another is an incident of service, which cannot lightly be interfered with by Courts unless it is shown to be clearly arbitrary or visited by mala-fide or infraction of any prescribed norms of principles governing

the policy of transfer. No Government servant or employee of Public undertaking has legal right for being posted at any particular place.

8. In view of the above settled legal position, I am not inclined to interfere with the impugned transfer order. Accordingly, this writ petition stands dismissed. However, the petitioner shall be at liberty to make a fresh representation, if so advised.

Sd/-
(Goutam Bhaduri)
Judge

Vishakha