

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 3089 of 2020**

- Suresh Kumar Kachhap S/o Shri Jageshwar Kachhap Aged About 57 Years Presently Posted As General Manager, District Trade And Industry Trade, District Bijapur Chhattisgarh ---- **Petitioner**

Versus

1. State Of Chhattisgarh, Through Its Secretary Trade And Commerce Department Mantralaya, Mahanadi, Bhawan, Naya Raipur, District Raipur Chhattisgarh
2. Special Secretary, Trade And Commerce Department Mantralaya, Mahanadi, Bhawan, Naya Raipur, District Raipur Chhattisgarh.

---- Respondents

For Petitioner	:	Mr. Ishan Verma, Advocate
For State	:	Ms. Akansha Jain, Dy. G.A.

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****11/08/2020**

1. Heard
2. Learned counsel for the petitioner submits that the petitioner joined his service in the year 1997 on the post of Manager at District Trade and Industry Center, Raigarh. Thereafter, he was transferred to Distt.-Jashpur in the year 1999 where he worked uptill year 2004 and again in the year 2004, he was transferred to Distt.-Jagdalpur where he worked uptill year 2008. Subsequently, in the year 2008, the petitioner was again transferred to Distt.-Dantewada wherein he worked till 2013 and in 2013 he was again sent back to Raigarh and thereafter from Raigarh he was sent back to scheduled area in the year 2016 in Bijapur and is serving there till date. It is contended that the petitioner has already served more than considerable period in

the scheduled area and according to the Transfer Policy of the State, the person who has served in the scheduled area is required to be considered to be posted in the non-scheduled area. Learned counsel for the petitioner refers to the Transfer Policy adopted by the State dated 03.06.2015 (Annexure P/6) and also refers to a judgment passed in Writ Appeal No. 549 of 2016 dated 14.12.2016 and submits that the Division Bench of this Court has also held that the person once has served in the tribal/ scheduled area, he is required to be considered to be posted in the non-scheduled area. Learned counsel, at the end, refers to Annexure P/7 and submits that under these circumstances the petitioner has sought for transfer to be posted in the non-scheduled area which has not yet been decided and is required to be considered.

3. *Prima facie* the submission of learned counsel for the petitioner which is supported by the document would show that the petitioner has served considerable period in the scheduled area except in the two intervening periods i.e. one after the initial appointment and subsequently in the year 2013, barring the same the petitioner has already served in the Districts – Jashpur, Jagdalpur, Dantewada and lastly posted in Bijapur (present place of posting) from 2016. Under these circumstances, since para 2.1 of the Transfer Policy specifically purport that the person who has served in the scheduled area, he would be considered to be placed in the non-scheduled area, therefore, taking into the period of service rendered by the petitioner in the scheduled area and the spirit of the order passed by the Division Bench of this Court, the respondent No. 2 (Special

Secretary, Trade and Commerce Department Mantralaya, Raipur) before whom the representation (Annexure P/7) is filed, is directed to decide the representation of the petitioner according to the existing Transfer Policy within a period of 90 days. It goes without saying that the respondent No. 2 shall take into account the service rendered by the petitioner in the scheduled area for further posting of the petitioner.

4. With the aforesaid direction/ observation, the writ petition finally stands disposed off.

Sd/-
(Goutam Bhaduri)
Judge

Vishakha