

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 3608 of 2020

- Shashi Bhushan Nayak S/o Shri Locahn Prasad Nayak Aged About 35 Years Occupation- Service, Posted As Secretary Of Gram Panchayat Kushgarh, Janpad Panchayat Kasdol, Civil And Revenue Distt.- Balodabajar-Bhatapara, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary Panchayat And Rural Development, Department Mantralaya Mahanadi Bhawan, Capital Complex New Raipur, Distt.- Raipur, Chhattisgarh
2. Chief Executive Officer District Panchayat Balodabajar, Distt.- Balodabajar-Bhatapara, Chhattisgarh
3. Chief Executive Officer Janpad Panchayat Kasdol, Distt.- Balodabajar-Bhatapara, Chhattisgarh

---- Respondents

For Petitioner : Mr. Sunil Sahu, Advocate

For Respondents/ State : Ms. Akansha Jain, Dy. G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order

15.09.2020

1. Heard.
2. The challenge in the present writ petition is to the impugned order dated 10.08.2020 (Annexure P/1) whereby the petitioner has been transferred from Janpad Panchayat Kasdol to Janpad Panchayat Bhatapara by the respondent No. 2.
3. Learned counsel for the petitioner submits that the petitioner has been

transferred from Janpad Panchayat Kasdol to Janpad Panchayat Bhatapara by the Chief Executive Officer Zila Panchayat Balodabazar-Bhatapara by order dated 10.08.2020 (Annexure P/1). He submits that Section 27 of the Panchayat (Recruitment and General Conditions of Services) Rules, 1999 (henceforth 'Rules of 1999') for placing a person of one Janpad Panchayat service to other Janpad Panchayat service, the consent of the Chief Executive Officer (C.E.O.) of other Zila Panchayat is required, therefore in this case the consent of the Chief Executive Officer Janpad Panchayat Balodabazar-Bhatapara should have been obtained and in absence of that, the transfer is against the Section 27 of the Rules of 1999. He also refers to the judgment passed in the case of **Om Prakash v. State of Chhattisgarh & Others** reported in **2011(4) C.G.L.J. 547**.

4. Learned State counsel opposes the argument made by learned counsel for the petitioner.
5. Perused the transfer order (Annexure P/1). Perusal of the transfer order shows that the transfer has been made by the Chief Executive Officer Zila Panchayat Balodabazar-Bhatapara and it is not in dispute that the transfer has been made from Janpad Panchayat Kasdol to Janpad Panchayat Balodabazar-Bhatapara.
6. Section 27 and Sub-Section 2 of Section 27 of the Rules of 1999 is produced hereunder:-

“27. Appointment of Panchayat employ to and his Panchayat.-Notwithstanding anything contained in these rules, the appointing authority on application made by any

employee of Panchayat Service of other Panchayat, may appoint such employee to a same or equivalent post in the Panchayat service on such terms and conditions as may be mutually agreed upon between the two Panchayats, and subject to the following conditions, namely:-

(i) xxxxxxxxxxxxxxxx xxxxxxxxxxxxxxxxxxxx xxxxxxxx .

(ii) The person so appointed shall received the junior most rank, for the purpose of seniority, in the cadre of the post to which he is appointed, as it stands on the date of such appointment.”

7. Reading of the Section 27(ii) of the Rules of 1999 which was added on 30.11.2012 shows that the Chief Executive Officer of the concerned Jila Panchayat has been given the power to transfer one employee from one Janpad Panchayat to another Janpad Panchayat within a district. Since, Kasdol and Bhatapara comes within the district of Balodabazar, and since the transfer has been made by CEO Jila Panchayat Balodabazar, in view of this it cannot be said that there has been non-observance of Section 27 of the Rules of 1999. The reliance which is placed by the petitioner is on a judgment passed in the year 2011 whereas in addition Sub Section 2 to Section 27 was made on 30.11.2012, therefore no benefit can be granted to the petitioner on the basis of judgment passed by this Court earlier.

8. The present writ petition sans merit and accordingly is dismissed.

Sd/-

(Goutam Bhaduri)
Judge