

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 3830 of 2020**

Uttam Kumar Dewangan S/o. Late Shri Panchram Dewangan, Aged About 59 Years W / As Sub Divisional Officer, PWD Sub Division Nawagarh, PWD (B & R) Division Bemetara, District Bemetara, Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh, Through - The Secretary, Public Works Department, Mantralaya, Mahanadi Bhawan, Atal Nagar, Nawa Raipur, District Raipur Chhattisgarh.
2. Special Secretary, Public Works Department, Mantralaya, Mahanadi Bhawan, Atal Nagar, Nawa Raipur, District Raipur Chhattisgarh.
3. Engineer-In-Chief, Public Works Department, North Block, Sector - 19, Nirman Bhawan, Nawa Raipur, Atal Nagar, District Raipur, Chhattisgarh.
4. Superintending Engineer, Public Works Department Durg Circle, Durg, District Durg, Chhattisgarh.
5. Executive Engineer, Public Works Department (B & R) Division Bemetara, District Bemetara, Chhattisgarh.
6. Sagar Kumar Sahu (Son Of Not Kown To The Petitioner), Working As Sub - Engineer, In The Office Of Executive Engineer, PWD Division, Bemetara, District Bemetara Chhattisgarh.

---- Respondents

For Petitioner : Mr. Anand Dadariya, Advocate

For Respondents/State : Ms. Akanksha Jain, Dy. Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri**ORDER****30.09.2020**

Heard

1. Learned counsel for the petitioner submits that the petitioner has been transferred from the office of S.D.O., PWD Nawagarh to the Assistant Engineer, office of Executive Engineer, PWD Bemetara by order dated 15.09.2020 (Annexure P-1). He would submit that the said transfer has been made only to accommodate the respondent No.6, Sagar Kumar Sahu, who is Sub-Engineer, as per the letter of the local MLA dated 28.11.2019 (Annexure P-6) and no administrative exigency exists. He would further

submit that as per Clause 2.14 of the transfer policy, the senior officer cannot be transferred and in lieu thereof charge cannot be given to the junior. It is stated as per the gradation list, the respondent No.6 who is Sub-Engineer is much junior and placed at serial No.361. He further submits that the circular of the State dated 04.08.2011 (Annexure P-8) also mandate that junior should not be given the charge instead of senior.

2. State counsel opposes the argument and would submit that as per the administrative exigencies, the transfer has been made and the petitioner is posted there from 2016.
3. The letter Annexure P-6 written by the local MLA shows that recommendation has been made to give charge to the respondent No.6 Sagar Kumar Sahu. The transfer policy is placed on record dated 27.06.2019 wherein Clause 2.14 reads as under :

“2.14 सामान्यतः स्थानांतरण द्वारा रिक्त होने वाले पद की पूर्ति उसी पद के समकक्ष अधिकारी की पदस्थापना से की जाए। वरिष्ठ अधिकारी का स्थानांतरण कर उस पद का प्रभार कनिष्ठ अधिकारी को न दिया जाए।”

Further the circular dated 04.08.2011 (Annexure P-8) also purports that the junior should not be given the charge instead of senior.

4. Clause 2.14 of the transfer policy would show that by transferring the senior person the junior should not be given the charge. The gradation list shows that the respondent No.6 is placed at serial No.361. Considering the same, it is directed that the petitioner shall be at liberty to make a representation to the respondent No.1 within a period of 3 weeks which shall be decided within a further period of 60 days from the date of receipt of the representation. Till the representation is decided, the transfer order dated 15.09.2020 (Annexure P-1) in respect of the petitioner shall not be given effect to.
5. With the aforesaid observation, the writ petition stands disposed of.

Sd/-
Goutam Bhaduri
Judge