

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 4837 of 2020

Ramesh Dubey S/o Late Hethram Dubey Aged About 59 Years R/o Sirgitti, Bilaspur, District Bilaspur Chhattisgarh.

---Petitioner(s)

Versus

1. State of Chhattisgarh Through Secretary, Urban Administration And Development Department, Mahanadi Bhawan, Mantralaya, Capital Complex, Atal Nagar, Nawa Raipur, District Raipur Chhattisgarh.
2. Director, Urban Administration And Development, Directorate, Atal Nagar, Raipur, District Raipur Chhattisgarh.
3. Collector, Kanker, District Kanker Chhattisgarh.
4. Commissioner, Tribal Welfare, Block 4 D, Ground Floor, Indrawati Bhawan, Atal Nagar, Raipur Chhattisgarh.

---Respondents

For Petitioner	:	Shri Manoj Paranjpe and Shri Anshul Tiwari, Advocates.
For State	:	Shri Mateen Siddiqui, Dy. Advocate General along with Shri Rahul Jha, Govt. Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

07.12.2020

1. The challenge in the present writ petition is to the order Annexure P/1 dated 31.10.2020 posting the petitioner at Nagar Panchayat, Dornapaal, District Sukma.
2. Brief facts relevant for disposal of the present writ petition is that, the petitioner was working as a Chief Municipal Officer at Nagar Panchayat, Antagarh, District Kanker. For some alleged act of misconduct, the petitioner was placed under suspension on 02.04.2020. When the suspension was prolonged for a considerable period of time, the petitioner approached this court vide WPS No.4142 of 2020. The said writ petition came up for hearing on 16.10.2020 and this court taking into consideration the judgment of Supreme Court in case of Ajay Kumar Choudhary Vs. Union of India & Ors. 2015(7)SCC 291 disposed of the writ petition directing the respondents to consider the case of the petitioner in terms of

the judgment of the Supreme Court. Pursuant to the said order passed by this court on 16.10.2020, the matter was reconsidered by the respondents and now the impugned order Annexure P/1 dated 31.10.2020 has been passed whereby the respondents have revoked the order of suspension and have granted the petitioner posting at a new place i.e. at Nagar Panchayat, Dornapal, District Sukma.

3. The counsel for the petitioner assailed the impugned order firstly on the ground that after having revoked the order of suspension, the petitioner ought to have been taken back in service at the same place where he was posted before his suspension and secondly the petitioner is aged around 59 years and as per the policy of the State Govt. a person more than 55 years of age should not be posted at a core area and Dornapal where the petitioner has been posted is a hard core area and therefore the respondents should have considered posting of the petitioner elsewhere, if not at the same place from where was suspended.
4. As regards the contention of the petitioner that on revocation he has been shifted to a different place, the law is well settled now the Division Bench in L.P. Saket Vs. Chhattisgarh State Civil Supplies Corporation & Ors. WPS No. 7269 of 2017, decided on 15.11.2018 has in a very categorical terms held that a person may have lien to a post and not to the place of posting. Hence, the impugned order to that extent cannot be said to be contrary to law. As regards the fact that the petitioner has been sent to a hard core area, this court is of the opinion that since the petitioner was under suspension from 02.04.2020 and finally the order of suspension was revoked on 31.10.2020 the petitioner has to be taken back in service and the respondents thought it fit for posting the petitioner at Nagar Panchat Dornapal. Taking the petitioner back in service after revocation of

suspension cannot be said to be an order of transfer. It is infact an order of posting of the petitioner. Even otherwise, from the record it appears that earlier also the petitioner was posted at a core area and still being granted posting at a core area.

5. Now if at all if the petitioner is not satisfied with the place of posting, considering his age factor etc. or whatever grounds available, the only recourse available to the petitioner would be that of moving an appropriate representation to the authorities concerned for ventilating his grievances. The writ court, exercising the writ jurisdiction would not have much power to decide the place of posting in the given factual matrix of the case.
6. The writ petition stands disposed of with liberty to the petitioner to prefer an appropriate representation to the respondent No.1 and the respondent No.1, in turn, may consider and decide the same in accordance with rules and guidelines governing the field at the earliest.

Sd/-
(P. Sam Koshy)
Judge