

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 7001 of 2019

Dhan Sai Yadav S/o Late Bhikham Prasad Yadav Aged About 59 Years
Presently Posted As Working as Chief Executive Officer, Incharge, Janpad
Panchayat Pamgarh, District Janjgir Champa Chhattisgarh. --- **Petitioner**

Versus

1. State of Chhattisgarh through the Secretary, Department of Panchayat and Rural Development, Mantralaya, Mahanandi Bhawan, Atal Nagar, Naya Raipur District Raipur Chhattisgarh.
2. Development Commissioner Chhattisgarh, Indrawati Bhawan, Atal Nagar, Naya Raipur District Raipur Chhattisgarh.
3. Shri Laxmi Kant Kaushik Assistant Project Officer, Zila Panchayat Mungeli District Mungeli Chhattisgarh. --- **Respondent**

For the Petitioner	:	Mr. Shashank Thakur, Advocate
For Respondent/ State	:	Mr. Neeraj Pradhan, Panel Lawyer.
For respondent no.3	:	Mr. Karri Rohan, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

11.02.2020

1. Learned counsel for the petitioner would submit that the petitioner was initially promoted from the post of Assistant Development Officer to Development Extension Officer (DEO) in the year 2011. He contends that the petitioner was posted by order dated 06.02.2019 (Annexure P-5) to discharge the job of Chief Executive Officer at Janpad Panchayat Pamgarh. Subsequently, respondent no.3 Lakshmi Kant Kaushik has been transferred by order dated 23rd of August, 2019 and posted as In-Charge of Chief Executive Officer at Janpad Panchayat Pamgarh. He would submit that the petitioner being the Development Extension Officer which is equivalent to Assistant Project Officer which the respondent no.3 holds are one and the same and as per the Circular dated 04th

August, 2011, the junior cannot be given the charge when the senior is available in the department. He would submit that the petitioner being senior to respondent no.3, respondent no.3 cannot be given charge of C.E.O., Jila Panchayat Pamgarh.

2. Learned State Counsel as also learned counsel for respondent no.3 would submit that the post of Development Extension Officer and the Assistant Project Officer are not of the same cadre. He would submit that the Assistant Project Officer is Class II post whereas the D.E.O., is Class-III post. Consequently when the petitioner was given the charge of C.E.O., Zila Panchayat and respondent no.3 has been substantially transferred to the said post, the same cannot be stalled. The respondents would submit that the pay-scale of the Asst. Project Officer (APO) and the Development Extension Officer (DEO) are different and respondent no.3 has directly been appointed to the Post of Asst. Project Officer, Janpanchayat Panchayat, which is higher than the post of D.E.O therefore, the transfer cannot be challenged by the petitioner. He would further submit that by order dated 06.09.2019, Annexure R-1 the petitioner has already been relieved to join his original place of posting at Jila Panchayat Janjgir Champa and respondent no.3 has taken the charge. Consequently the order has already been carried out.
3. Perused the document. A perusal of the document would show that the petitioner by order dated 06.02.2019 (Annexure P-5) was given the charge of C.E.O., Janpad Panchayat Pamgarh. The document (Annexure R-2) is the gradation list of the Development Extension Officer of 01.4.2019 and Annexure R-3 is a separate gradation list of the Assistant Project Officer of 01.04.2018. The name of the petitioner as District Extension Officer appears in the gradation list of Development Extension Officer (Annexure R-2) at serial No.38 whereas the name of respondent no.3 in the gradation list of Assistant Project

Officer (Annexure R-3) appears at serial no.4. Prima facie, it shows that the two posts i.e., Development Extension Officer and Assistant Project Officer are two different cadres and respondent no.3 is senior in the cadre being the Class-II officer. The order dated 06.02.2019 would further show that the petitioner was given the charge of C.E.O., therefore, when respondent no.3 though has been given charge by order Annexure P-1, the same cannot be challenged on the ground that it is violative of Circular of 04th August 2011 (Annexure P-7). After perusal of the gradation list, prima facie, it does not show that there has been violation of the fact that respondent no.3 being junior is placed as In-Charge in place of the petitioner. The petition is therefore dismissed.

Sd/-
(GOUTAM BHADURI)
JUDGE