

**HIGH COURT of CHHATTISGARH, BILASPUR**

**Judgment reserved on 21.01.2020**

**Judgment pronounced on 14.02.2020**

**WA No. 582 of 2019**

(Arising out of order dated 21.11.2019 in WPS- 9802 of 2019)

- Laxman Lal Sharaf, S/o Shri Jeevn Lal Sharaf, Aged About 57 Years, Working as Block Education Officer, and Posted At Block Education Akaltara, District Janjgir Champa Chhattisgarh

**---- Appellant**

**Versus**

1. State of Chhattisgarh Through Secretary, Department of School Education, Mahanadi Bhawan, Mantralaya New Raipur, District Raipur Chhattisgarh
2. District Education Officer Janjgir Champa, District Janjgir Champa Chhattisgarh

**-----Respondents**

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|-----------------------|------------------------------------------------|
| For Appellant         | : Shri Ajay Shrivastava, Advocate              |
| For Respondents/State | : Shri Ghanshyam Patel,<br>Government Advocate |

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**Hon'ble Shri PR Ramachandra Menon, Chief Justice &  
Hon'ble Shri Justice Parth Prateem Sahu  
CAV Judgment**

**Per Parth Prateem Sahu, J.**

1. Challenge in this Writ Appeal is to the order dated 26.11.2019 passed by the learned Single Judge whereby learned Single Judge declined to interfere with the order of transfer passed against the appellant/writ petitioner.
2. Facts of the case, in a nutshell, are that the appellant was posted as Block Education Officer, Akaltara, District Janjgir-Champa and vide order dated 22.08.2019, he was transferred to Government High School,

Saplawwa, Block Pali, District Korba (for short, 'Saplawwa School'). The said transfer order was challenged in WPS-6778 of 2019. Learned Single Judge considering the grounds raised in the petition, directed the appellant to make a detailed representation before the competent authority and directed the same to be decided by the respondent authority within a period of 45 days from the date of receipt of the representation, till then, the effect and operation of transfer order of appellant was stayed.

**3.** In pursuance of the order passed in WPS-6778 of 2019, appellant submitted a representation which was rejected by order dated 20.11.2019 (Annexure P1).

**4.** Dissatisfied with rejection of his representation, appellant preferred second petition bearing No.Writ Petition(S)-9802 of 2019 which came to be dismissed by impugned order dated 26.11.2019 which is under challenge in this appeal.

**5.** Shri Ajay Shrivastava, learned counsel for the appellant submits that appellant's representation was not considered by the authorities in an objective manner, rather it was rejected mechanically without application of mind and without assigning any reason. He further submits that appellant's transfer cannot be said to be in administrative exigency because there is no vacant post of Lecturer(History) in Saplawwa School at Pali, where he was transferred. This information has been supplied to appellant when he went to the transferred School on 21.11.2019 for his joining. Learned counsel for the appellant also submits that appellant was transferred from Akaltara, within a short period of 7-8 months of his

joining, without any justification and in furtherance, School at Saplawā, Pali, where he was transferred by order dated 22.08.2019 is not having train facility. The appellant is a paralytic patient and is taking treatment from Ramkrishna Care Hospital, Raipur, he will face great hardship and inconvenience to travel from the Saplawā to Raipur for his treatment, and therefore, learned counsel prays for interdicting transfer order dated 22.08.2019.

**6.** Per contra, Shri Ghanshyam Patel, learned State counsel submits that substantive post of appellant is 'Lecturer' and not of 'Block Education Officer'. Looking to the medical ailment of appellant, which is also pleaded in the Writ Petition, he has been transferred to the post of Lecturer from the post of Block Education Officer. Post of Block Education Officer is of more work pressure because, Block Education Officer has the responsibility of drawing and disbursing of funds for salaries of employees, teachers and other funds etc., for the schools within that block. Post of Block Education Officer being the head of Block level, have to monitor and manage the affairs of all the schools at Block level. He submits that other grievance of appellant has been taken into consideration by the authorities concerned and transfer order dated 22.08.2019 is modified on 15.01.2020 and at present appellant is posted at Government Higher Secondary School, Pathiyapali, Block Kartala, District Korba and the distance from Pathiyapali to Champa is about 10-15 km and there is also railway connectivity within 5 km from Pathiyapali ie Madwarani Railway Station. Learned State counsel further submits that modified order was issued to appellant only on 15.01.2020, which is filed as Annexure R/1. It is further

contention of State counsel that the person who is holding cadre of Principal is entitled to be posted as Block Education Officer, whereas appellant is holding post of Lecturer(History) and not Principal.

7. Submission made by learned State counsel was not objected or opposed by learned counsel for the appellant but for the submission that appellant at no point of time was on medical leave.

8. We have heard learned counsel for the parties and also perused documents annexed along with the Writ Petition as well as Writ Appeal.

9. It was not disputed by learned counsel for appellant that substantive post of appellant is 'Lecturer'. So far as objection raised by learned counsel for the appellant that appellant has not availed any medical leave is concerned, it appears to be incorrect, in view of document Annexure R2 dated 25.01.2019, filed by respondent/State, wherein it was mentioned that charge of Block Education Officer was handed over to one Harish Kumar Chauhan, Principal, Government Girls Higher Secondary School, Akaltara, on account of medical leave taken by the appellant. After confronting said document Annexure R2, learned counsel for the appellant could not explain his submission. Perusal of Annexure P9 representation by the appellant on 06.09.2019 in pursuance of order passed in WPS-6778 of 2019 would show that it was submitted only on the ground of medical ailment, mentioning therein that he was taking treatment from Ramkrishna Care Hospital, Raipur; place of posting ie Akaltara is more convenient for the appellant to travel to Raipur for treatment.

**10.** We are not satisfied with the manner in which representation of the appellant was decided by respondent-1 as no reason was assigned by the authority/Officer on the ground raised by the appellant in his representation placed for consideration before the authorities. It is requirement that if any higher authority is considering representation of an employee then the said representation to be decided by a speaking order.

**11.** Modified transfer order Annexure R1 dated 15.01.2020, wherein appellant is posted temporarily at Government Higher Secondary School, Pathiyapali, Block Kartala, District Korba; geographical description as mentioned in the return submitted by State regarding place of posting that nearby to Pathiyapali School, Railway Station is available; and further that, said school is within the distance of 10-15 km away from Champa Railway Station, which is main rail track. In our opinion, grievance raised by the appellant that his posting to be made near the Railway Station has been redressed.

**12.** In view of above facts, particularly looking to the issuance of modified transfer order Annexure R1 dated 15.01.2020 by the respondent/State during pendency of this Writ Appeal, we do not find any merit left in this appeal.

**13.** Accordingly, taking note of the subsequent order dated 15.01.2020 passed by the respondents/State, the appeal stands dismissed.

Sd/-  
**(PR Ramachandra Menon)**  
Chief Justice

Sd/-  
**(Parth Prateem Sahu)**  
Judge