

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
WA No. 619 of 2019

(Arising out of order dated 25.11.2019 passed by learned Single Judge in WPS No. 9164 of 2019)

- Mohan Ram S/o Late Shri Fulkeshwar Ram Aged About 52 Years Posted as Assistant Grade -2, Collectorate Office, Baikunthpur, District - Koriya Chhattisgarh.

----Appellant

Versus

1. State of Chhattisgarh Through The Secretary, Revenue & Disaster Management Department, Mantralaya, Atal Nagar, New Raipur Chhattisgarh.
2. The Collector & District Magistrate, District - Koriya Chhattisgarh (Baikunthpur), Chhattisgarh.

-----Respondents

For Appellant	: Shri Rahul K Mishra, Advocate.
For Respondent- State	: Shri Ghanshyam Patel, GA.

Hon'ble Shri PR Ramachandra Menon, Chief Justice &
Hon'ble Shri Justice Parth Prateem Sahu
Order on Board

Per Parth Prateem Sahu, J

25/02/2020

1. Challenge in this appeal is to the order dated 25-11-2019 passed in WPS No.9164/2019, whereby writ petition challenging the rejection of representation filed by the appellant and also the impugned transfer order dated 12-07-2019 has been dismissed.
2. Facts of the case in nutshell are that the appellant was posted as Assistant Grade -II at District Office Koriya. The appellant was transferred from District office Koriya to Tahsil office Khadgawan on administrative grounds on 12-07-2019. The appellant has challenged the order of his transfer before this Court by filing a writ petition and upon considering the relevant facts of the writ petition, the learned Judge *vide* order dated 16-08-2019, directed the appellant to make a detailed representation before the competent authority and the same be decided within the period of 45 days from the date of receipt of the representation. Till then stayed the effect and operation of the transfer

order of the appellant.

3. The appellant pursuant to the aforementioned order dated 16-08-2019 submitted representation before the Collector, who after taking into consideration the grounds raised in the representation has dismissed the representation mentioning therein that the appellant/ petitioner, who is holding the post of Treasurer in the Chhattisgarh Pradesh Lipik Vargiya Shaskiya Karmachari, Sangh, Distt. Koriya, which do not come within the purview of the Circular, whereas only the President and Secretary of the said Union are protected from the transfer for a period of three years from the date of their nomination/ election on the said post. The rejection of representation made the appellant to file another writ petition and the learned Single Judge after taking note of the fact that the circular relied upon by the appellant itself does not include the post of Treasurer as protected category in the Circular for effecting the transfer of the said employee dismissed the writ petition.
4. The learned counsel for the appellant submits that the learned Single Judge has not taken into consideration the earlier Circulars issued by the erstwhile State of Madhya Pradesh dated 27-11-1990, 23-12-1992, 20-01-1993 and 20-05-1993, wherein the Treasurer is also included within the Circular giving protective period from transfer for the period of three years from the date of holding the post of Treasurer. He also submits that the earlier Circulars have not been withdrawn by the State Government and are in force on date also.
5. Per contra, learned counsel for the respondent/State submits that the appellant is continuously posted at the present place of posting since 2006, completed 13 years of his service at the present place of posting at District Office Koriya. He also submits by placing document dated 26-10-2019, that the Union of which the appellant is Treasurer has been temporarily recognized by the State Government only with effect from 26-10-2019 upto the period of 31-12-2019. Earlier to this date, the Union of the appellant is not

being recognized by the State Government and therefore, no benefit can be extended as sought by the appellant.

6. We have heard the learned counsel for the appellant as well as the learned counsel for the respondent/State.
7. Taking into consideration that, latest circular relied upon by the appellant i.e. of the year 1996 itself does not mention about the Treasurer to be included in the Circular giving relaxation from transfer of his service from the place of posting for the period of three years from the date of election/ nomination.
8. Even otherwise the circulars are not the Rules or any statute but it is only the guidelines. The important fact is that the appellant is continuously posted at the earlier place of posting from where he has been transferred since last 13 years. Transfer is an incident of service, an employee who is holding a transferable post cannot seek that he should be posted at a particular place, but it is for the employer to decide the place of posting of an employee keeping in mind the administrative exigency.
9. In view of the aforementioned facts and circumstances, we do not find any infirmity in the order passed by the learned Single Judge. The appeal being devoid of any substance which is liable to be and is hereby dismissed accordingly.

Sd/-

(P. R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge