

HIGH COURT OF CHHATTISGARH AT BILASPUR**W.P.(S) No. 10846 of 2019**

Anchit Bhawal, S/o. Late K.P. Bhawal, Aged About 50 Years, Working As Site Assistant, Public Works Division, Manendragarh, District Koriya Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh, Through The Secretary, Public Works Department, Mahanadi Bhawan, Mantralaya, Atal Nagar, New Raipur, District Raipur Chhattisgarh.
2. The Under Secretary, Public Works Department, Mahanadi Bhawan, Mantralaya, Atal Nagar, New Raipur, District Raipur Chhattisgarh
3. The Executive Engineer, Public Works Division, Manendragarh, District Koriya Chhattisgarh
4. The Sub Divisional Officer, Public Works Division, Manendragarh, District Koriya Chhattisgarh

---- Respondents

For Petitioner	:	Mr. R.V.Rajwade, Advocate
For State/Respondents	:	Ms. Richa Shukla, Dy. Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order on Board****03.01.2020**

Heard

1. This is the second round of litigation. The petitioner was transferred by an order dated 19.08.2019 from Public Works Division Manendrgarh District Koriya to Public Works Division Ambikapur, District Surguja. The said order was subject of challenge before this Court in WPS No.6738 of 2019 wherein this Court on 02.09.2019 has passed the following orders.

"1. The challenge in the present Writ Petition is to the order Annexure P/1 dated 19.08.2018 whereby the services of the petitioner has been transferred from Public Works Division, Manendragarh, District Korea to Public Works Division, Ambikapur, District Surguja.

2. The contention of the petitioner is that the same is in violation of the transfer policy on the ground that the

wife of the petitioner also is posted at the present place, where the petitioner is working and thereby the petitioner as well as his wife should had been retained at the same place as far as possible.

3. Given the said facts, let the petitioner make a detailed representation to the respondents within a period of 10 days from the date of receipt of the copy of this order and the respondents in turn shall decide the case of the petitioner taking into consideration the transfer policy, particularly the clause whereby protection is being given to the husband and wife working in the State Government.

4. Let a decision be taken by the respondents within a period of 45 days from the date of receipt of the representation. Meanwhile, the effect and operation of the impugned order shall remain stayed so far as the petitioner is concerned.

5. With the aforesaid observations, the present writ petition stands disposed off.”

2. Learned counsel for the petitioner would submit subsequent to such representation filed, the same was rejected without any valid reason and the transfer order is in breach of the transfer policy as wife of the petitioner is teacher at Koriya and the children are also studying and apart from that the wife is suffering with medical problem, therefore, the transfer may be canceled.
3. Perused the rejection order of the representation dated 22.11.2019. In such rejection, it is stated that the petitioner is posted for last 15 years in Koriya and on administrative exigency, the transfer has been made. As per the policy, as far as possible, the husband & wife can be posted at the same place, however, in the circumstance of this case, the petitioner has already posted in the particular place for last 15 years, therefore, the policy that the husband & wife be placed together cannot be read in favour of the petitioner. Unless and until severe prejudice would cause,

normally the transfer is not subject of interference. The transfer being the incident of service, it is the State Government which would decide whether the particular person has to be placed or posted, unless and until the transfer shock the conscience of Court for any reason of illegality or arbitrariness, normally the interference of the Court is not called for. Accordingly, the petition is dismissed.

Sd/-
(Goutam Bhaduri)
Judge

Ashok