

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 47 of 2020

Rajesh Kumar Shrivastava S/o Late A.K. Shrivastava Aged About 57 Years Working As Joint Director At Office Of Joint Director, Treasury Account And Pension Bilaspur, District Bilaspur Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through Its Secretary, Department Of Finance, Mantralaya , Mahanadi Bhavan , Nava Raipur , Atal Nagar, District Raipur Chhattisgarh.
2. Joint Secretary, Finance Department , Mantralaya , Mahanadi Bhavan, Nava Raipur, Atal Nagar , District Raipur Chhattisgarh.
3. Bilaspur University (Now Known As Atal Bihari Vajpayi University) Through Its Registrar, Atal Bihari Vajpayi University, Bilaspur , District Bilaspur Chhattisgarh.
4. Director, Treasuries Account And Pension, Indravati Bhawan, Nava Raipur , Atal Nagar , District Raipur Chhattisgarh.
5. Bhavesh Kumar Dubey Finance Officer, Bilaspur University, Bilaspur (Now Known As Atal Bihari Vajpayi University), District Bilaspur Chhattisgarh.

----Respondents

For petitioner – Shri Vinod Deshmukh, Advocate.

For State-Shri Amrito Das, Addl.A.G.

For respondent No.3-Shri Vivek Kumar Agrawal, Advocate appears on behalf of Shri Sudeep Agrawal, Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order

08/01/2020

Heard.

1. This is second round of litigation. On the earlier occasion the petitioner who is working as Joint Director, Treasury Account and Pension, Bilaspur was transferred as a Finance Officer, Bilaspur University by an order dated 23/08/2019 (Annexure P-11) which was subject of challenge on the ground that the services of the petitioner cannot be governed under the University Act, 1973 wherein this court in WPS No.7063/2019 on 9/09/2019 has passed the following order:-

“The petition is admitted for hearing.

State Counsel accepts notice on behalf of respondents No. 1 & 2. Mr. Sudeep Agarwal, Adv. accepts notice on behalf of respondent No. 3. Mr. Varun Sharma for the respondent No. 4, hence issuance of notice 1, 2, 3 & 4 stands dispensed with.

Let reply be filed to the writ petition as well as to the interim application i.e. I. A. No. 01/2019 within 7 days from today.

Counsel for the petitioner submits that the service condition of the petitioner are governed by the University Act 1973 and also the Service Rules & Regulations applicable upon the employee of the University i.e. the University Service Rule 1993 and the transfer now is being made contrary to these rules.

Considering the facts & circumstances of the case, let reply of all the respondents be filed both on merits as well as I.A. No. 01/2019.

List this case in the week commencing 01.10.2019.

Meanwhile, the effect and operation of the impugned order shall remain stayed so far as petitioner is concerned.

Counsel for the respondent No. 3 submits that he has also given his joining.

Respondent/ State would be at liberty to take appropriate steps redressing grievance of either of the parties till the next date of hearing."

2. Learned counsel for the petitioner would submit that subsequently the impugned order has been passed on 3/10/2019 wherein the petitioner has been directed to report to the office of the Director, Treasury Account & Pension, Raipur. Learned counsel would submit that the said transfer has been affected only to accommodate the respondent No.5 who has been brought back as Finance Officer, Bilaspur University and being accommodated. It is further submitted that the petitioner wherein has been directed to be transferred by order dated 3/10/2019 no post of Joint Director exist, therefore the transfer of the petitioner to Raipur, it may affect the seniority and working of the petitioner besides humiliation, therefore the transfer requires to be stayed. It is further submitted that there is no proposal of transfer of the petitioner, consequently the transfer is mala fide for the reason that he had earlier filed a writ petition.

3. Learned State counsel vehemently opposes the argument. It is contended that the petitioner is placed at Bilaspur since 2009 and as per requirement of the official exigency the petitioner has been directed to report to the office of Director, Treasury Account & Pension, Raipur wherein subsequent posting order would be passed.

4. In view of the said submission made by the State that the petitioner has been directed to report to the office of the Director, Treasury Account & Pension, Raipur wherein subsequent orders would be passed. Taking into fact that the petitioner is in Bilaspur and working in different capacity either as Finance Officer at Bilaspur University and subsequently in the Treasury office and when the Government felt need that the transfer of the petitioner would be necessary in the department itself and unless prima facie it is shown that the transfer is tainted with malafide, interference of the court is uncalled for. The order dated 3/10/2019 instead assign the reason that why the petitioner is being posted at office of the Director, Treasury Account & Pension, Raipur. Consequently, it is the prerogative of the State and the transfer being incident of service, I do not find any merit in this case to admit the same. The petition is devoid of merit and it is accordingly dismissed.

Sd/-

(Goutam Bhaduri)

JUDGE