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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 33 of 2020**

(Arising out of order dated 30.09.2019 passed in WPS No.8003 of 2019 by the learned Single Judge)

Oskar Kujur S/o Late Patras Kujur Aged About 58 Years Occupation Service, Presently Posted As Society Inspector, In The Office Of Sub Registrar, Cooperative Society, Raigarh, District Raigarh, Chhattisgarh. R/o Quarter No. HIG/40, SADA Colony, Jamnipali, Police Station Darri, Korba, District Korba, Chhattisgarh.

---- Appellant**Versus**

1. The State of Chhattisgarh Through The Secretary, Department of Cooperative Society, Indrawati Bhawan, Atal Nagar, Raipur, District Raipur, Chhattisgarh.
2. Registrar Office Cooperative Society, Indrawati, Bhawan, Atal Nagar, New Raipur, Chhattisgarh. Through its Registrar.
3. Assistant Registrar Cooperative Society, Beejapur, District Bejapur, Chhattisgarh.

---- Respondents

For Appellants	: Shri Vivek Verma, Advocate
For Respondent/State	: Shri Chandresh Shrivastva, Dy. Advocate General

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice**Hon'ble Shri Parth Prateem Sahu, Judge****Judgment on Board****P.R. Ramachandra Menon, Chief Justice****16.01.2020**

1. Appellant is the Writ Petitioner in Writ Petition (S) No.8003 of 2019. The grievance is against the interference declined while dismissing the writ petition in respect of the composite posting order, whereby punishment was imposed and the suspension was revoked, though the challenge is confined only to the latter part i.e. the transfer effected on revoking the suspension.

2. Heard Shri Vivek Verma, the learned counsel appearing for the Appellant and Shri Chandresh Shrivastava, the learned Deputy Advocate General representing the State.
3. The crux of the case projected by the Appellant is that he was working as an Inspector in the Co-operative Department. As per Annexure A/2 order dated 19.02.2013, he was promoted to the post of Senior Co-operative Inspector and was continuing so, under the Headquarter at Raigarh. While so, in connection with certain misconducts, the Appellant came to be suspended as per Annexure A/3 order dated 11.12.2013 issued by the 2nd Respondent. A domestic enquiry was ordered to be conducted and Enquiry Officer was appointed as per Annexure A/4 dated 26.05.2014. After completing the enquiry, report was submitted by the Enquiry Officer finding the Appellant guilty of six charges levelled against him.
4. Considering the report and also the materials on record, the 2nd Respondent imposed punishment vide Annexure A/6 dated 19.12.2018; whereby two increments were cut off with cumulative effect. As per the very same order, the Appellant was stated as 'transferred' to the office of Assistant Registrar, Co-operative Society, Beejapur under the 3rd Respondent virtually shifting him from the Headquarters at Raigarh. This made the Appellant to feel aggrieved, who approached this Court by filing the writ petition challenging the said order i.e. Annexure A/6 insofar as he has been transferred to the office of Assistant Registrar, Co-operative Society, Beejapur

5. The relief sought for by the Appellant was opposed by the Government. The learned Single Judge noted that there was no challenge with regard to the punishment imposed and that the grievance was only with regard to the posting given. Observing that the Writ Petitioner cannot be have any lien in the particular post in which he was placed at the time of suspension, in view of the law declared by the Division Bench of this Court as per judgment dated **15.11.2018** in **Writ Petition (S) No.7269 of 2017 (L.P. Saket v. Chhattisgarh State Civil Supplies Corporation Limited)**, interference was declined and the writ petition was dismissed, which in turn put to challenge in this appeal.
6. The learned counsel appearing for the Appellant submits that the disciplinary authority is not having the power to effect transfer and it is only to effect punishment, if the charge is proved. Obviously, Annexure A/6 order passed by the 2nd Respondent is an order imposing a punishment and also effecting the transfer, which is not in conformity with the statutory provision insofar as Rule 10 of the Civil Services (Classification, Control & Appeal) Rules, 1966 is concerned. The said Rule prescribes the penalties to be awarded, where 'transfer' is not included as a punishment, submits the learned counsel.
7. The learned counsel appearing for the State submits that there is no merit or bonafide in the contention raised by the Appellant. It is pointed out that the issue is no longer *res integra* in view of the ruling rendered by the Division Bench of this Court, which has been relied on by the learned Single Judge while declining interference. The order passed by the said

authority i.e. the 2nd Respondent vide Annexure A/6 giving a posting is consequent to the suspension pursuant to order of punishment, which was passed as Annexure A/3, by the very same authority. As such, contention raised by the learned counsel for the Appellant is without any substance, submits that State counsel.

8. After hearing both the sides, we find that there is considerable force in the submission made by learned counsel for the Government insofar as the suspension was ordered by none other than the Registrar of the Co-operative Society, i.e. the 2nd Respondent as per Annexure A/3 order dated 11.12.2013. On completion of the enquiry, the quantum of punishment was decided by the disciplinary authority i.e. the 2nd Respondent, who has awarded stoppage of two increments with cumulative effect, to be the adequate punishment. As a natural consequence, since the punishment did not amount to removal or dismissal from service, it was necessary to have the delinquent employee replaced after revoking the order of suspension. It was accordingly, that necessary order was passed as per Annexure A/6 to the effect that suspension order passed on 11.12.2013 as per Annexure A/3 would stand revoked and that the Appellant be posted in the office of the Assistant Registrar, Co-operative Society, Beejapur
9. The contention of the Appellant is that, on revoking the suspension, the Appellant ought to have been posted at the very same place; which is beyond the farthest stretch of imagination, apart from the fact that it does not have any factual or legal footing. This is more so, since the suspension order was passed in the year 2013 and revocation was necessitated,

when punishment of stoppage of two increments with cumulative effect was inflicted in the year 2018 i.e. virtually after a period of 5 years. Nobody can think that the Department had to keep the post at Headquarters Raipur to be vacant till the disciplinary proceedings against the Writ Petitioner/Appellant were completed. The authorities concerned could have passed appropriate orders, posting appropriate person at appropriate place so as to meet the organisational interest. On passing the final order of stoppage of two annual increments with cumulative effect in the year 2018, the suspension ordered on 11.12.2013 had to be revoked, which has been revoked and as a natural consequence, necessary 'posting order' was to be given to the Appellant, which alone has been done by the 2nd Respondent. That apart, as made clear by the Division Bench of this Court in L.P. Saket case, the employee cannot be heard to say that he is having lien in the post from which he was suspended in connection with the disciplinary proceedings, the authority who passed the order i.e. Annexure A/6 is the very same authority who had placed the Appellant under suspension as per Annexure A/2 and hence the plea of alleged infirmity/incompetence is devoid of any pith or substance.

10. There is no merit in the writ appeal. Interference stands declined and the writ appeal is dismissed.

Sd/-

(P.R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge