

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 586 of 2021**

Alok Kumar Rai S/o Shri Satyendra Nath Rai, Aged About 51 Years, R/o Flat No. B-7, Happy Home Apartment Greenland, Vishal Nagar, Raipur, Tahsil And District – Raipur, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh, Through The Secretary, Finance Department, Mantralaya, Mahanadi Bhawan, Nawa Raipur, Atal Nagar, District Raipur, Chhattisgarh
2. Director, Directorate, Treasury, Accounts And Pension, Indravati Bhavan, Block - A, Nava Raipur, District – Raipur, Chhattisgarh
3. Chhattisgarh Pathya Pustak Nigam, Through The Chairman, C.G. Board Office Campus, Pension Bada Raipur-492001, District – Raipur, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Prateek Sharma, Advocate
For Respondents	:	Mr. Sudeep Verma, Dy. G.A. and Mr. Abhyuday Singh, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****28.01.2021**

1. The challenge in the present writ petition is to the order Annexure P-1 dated 14.01.2021 whereby the services of the petitioner have been transferred from Directorate, Treasury, Accounts & Pension, Nava Raipur, District Raipur to Chhattisgarh Pathya Pustak Nigam, Raipur,

District Raipur as a Senior Manager (Finance).

2. Counsel for the petitioner submits that since the petitioner is exclusively an employee under the State Govt., he could not have been sent to Chhattisgarh Pathya Pustak Nigam amounting to deputation though it has not been mentioned and the same has been done without the consent of the petitioner. For the said reason, the impugned order of transfer is bad in law. Counsel for the petitioner relied upon the judgment of this Court decided on 19.02.2019 in WPS No. 1096/2019, in somewhat similar set of facts where an employee of Public Works Department had been sent on transfer to Chhattisgarh Road Development Project.
3. Learned counsel appearing for the respondents, however, opposing the petition submits that under the rules of the respondent no.3, there is a provision of filling up of the post of Senior Manager by way of deputation or transfer and since there was need of an officer of the said rank at the said post, the petitioner has been sent there purely on administrative exigency and it is only a stop gap arrangement for a temporary period, therefore, the impugned order does not warrant any interference. State counsel further submits that even otherwise no prejudice would be caused to the petitioner for the reason that there is no change of place and the petitioner has been transferred from one department to another within the same city. For this reason also the impugned order does not warrant any interference.
4. All said and done, what needs to be considered is that the respondent no.3 is a separate legal entity having its own service rules governing the service conditions of the employees under the respondent no.3.

There is also no dispute to the extent that the petitioner is an employee under the State Govt. and is presently posted as Deputy Director in Directorate, Treasury, Accounts & Pension, Raipur. By the impugned order the service of the petitioner is being sent to a foreign department which thus amounts to sending a person out of department without his consent. It also amounts to sending a person to a different foreign department without his consent. Both of which cannot be done without consent of an employee which in the instant case has been done.

5. In view of the same, this Court is of the opinion that the impugned order so far as posting of the petitioner to Chhattisgarh Pathya Pustak Nigam is concerned would not be sustainable particularly when it has not been issued with the consent of the petitioner. The same needs reconsideration and the impugned order to that extent deserves to be and is accordingly set aside only so far as the petitioner's transfer is concerned.
6. The interference to the impugned order so far as the petitioner's case is concerned, would not preclude the State authorities from issuing an appropriate order of transfer of the petitioner on administrative exigency within the Department in case need so arises.
7. With the aforesaid liberty, the writ petition stands disposed of.

Sd/-
P. Sam Koshy
Judge