

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 4180 of 2017**

Jitendra Kumar Mishra S/o Late L. N. Mishra, Aged About 49 Years Working As Assistant Grade I I, Legal Cell, Office Of The District Education Officer, District Bilaspur, Chhattisgarh.

---- Petitioner**Versus**

1. State of Chhattisgarh Through The Secretary, Department of School Education, Mahanadi Bhawan, Mantralaya, Naya Raipur, Chhattisgarh.
2. The Director, Directorate of Public Instructions, Chhattisgarh Raipur
3. The District Education Officer, District Bilaspur, Chhattisgarh.
4. Smt. Asha Tiwari, Assistant Grade I I I, Govt. Girls H.S. School, Pendra Block Pendra District Bilaspur, Chhattisgarh.

---- Respondents

(Cause-title taken from Case Information System)

For Petitioner	: Mr. Manish Nigam, Advocate
For Respondents No.1 to 3	: Mr. Sudeep Agrawal, Deputy Advocate General.

Hon'ble Shri Arup Kumar Goswami, Chief Justice**Order on Board****17.12.2021**

Heard Mr. Manish Nigam, learned counsel for the petitioner. Also heard Mr. Sudeep Agrawal, learned Deputy Advocate General appearing for the respondents No.1 to 3.

2. Notice to respondent No.4 was sent by registered post with A/D on 05.09.2017. Having regard to the period that has elapsed, notice on respondent No.4 is deemed to be served. None appears for the respondent No.4.

3. Challenge in this writ petition is to an order of transfer dated 14.08.2017, whereby, the petitioner was transferred and an order of transfer dated 14.08.2017, whereby, the petitioner claims that the respondent No.4 was posted in his place.

4. On 30.08.2017, this Court had passed the following order :

Shri Manish Nigam, counsel for petitioner.

Ms. Sunita Jain, PL for State, on advance copy.

Heard.

On payment of PF within three days, issue notice to respondent No.4, as per rules. Notices be made returnable in two weeks.

Submission of learned counsel for the petitioner is that though he has become due for transfer, but he could not be transferred to accommodate AG-III of another department. He submits that only occasion to transfer the petitioner is to accommodate respondent No.4, who does not substantively hold the post of AG-II. In view of above, it is directed that if the petitioner is not relieved, he shall not be relieved. However, if the State government post any other officer of the department, who substantively holds the post of AG-II, interim order will automatically come to an end.

List it after three weeks.”

5. In the return filed by the State, it is pointed out that the respondent No.4 had been transferred to a vacant post of Data Entry Operator in the Legal Cell, Education Department, Bilaspur and not to the post of the petitioner.

6. It is submitted by Mr. Nigam that the petitioner is continuing to hold the post of Assistant Grade – II in Legal Cell in the establishment of the respondent No.3.

7. Having regard to the long lapse of time, the respondents are directed not to implement the order dated 14.08.2017 so far as the petitioner is concerned. However, liberty is reserved to the respondents to pass such orders, as may be called for, in the interest of public service and administrative exigency. Liberty is also similarly reserved in respect of respondent No.4.

8. Resultantly, the petition stands disposed of in terms of the above direction and observations.

Sd/-
(Arup Kumar Goswami)
Chief Justice