

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 1502 of 2021**

Devendra Kumar Shrivastava S/o Late Narmada Prasad Shrivastava
Aged About 60 Years, Presently Working As Assistant Fisheries
Officer, Office Of The Assistant Director, Fisheries, District Kabirdham
(Chhattisgarh)

---- **Petitioner**

Versus

1. State Of Chhattisgarh Through The Secretary, Fisheries Department, Mantralaya, Mahanadi Bhawan, Atal Nagar Raipur, District Raipur (Chhattisgarh)
2. Director, Fisheries Department, Mantralaya, Indrawati Bhawan, Atal Nagar Raipur, District Raipur (Chhattisgarh)
3. Omprakash Mandavi, Assistant Fisheries Officer, Office Of The Assistant Director Fisheries, District Sukma (Chhattisgarh)

---- **Respondents**

For Petitioner	:	Mr. C. Jayant K. Rao, Advocate
For State	:	Mr. Alok Bakshi, Addl. Advocate General

Hon'ble Shri Justice P. Sam Koshy

Order On Board

09.03.2021

1. The grievance of the petitioner in the present writ petition is the rejection of the representation which the petitioner had made as per the order of this Court dated 29.10.2020 in respect of his transfer from Kabirdham to Sukma. The rejection of the representation was on 11.02.2021.
2. Today, when the matter is taken up for hearing, learned counsel for the petitioner submits that since the representation of the petitioner was rejected on 11.02.2021, the petitioner immediately tendered an

application for voluntary retirement on 22.02.2021 and his application has already been forwarded to the higher authorities by the concerned officers at Kabirdham. He submits that the petitioner has given 3 months notice of retirement therefore for the balance of period after notice the petitioner may not be relieved from the present place of posting. As a result he can retire from the present place of posting to avoid unnecessary difficulties and hardship that he may face on being transferred to Sukma as per the order dated 29.09.2020.

3. Learned State counsel, on the other hand, submits that it is a case where the application has been submitted to the department and there can be a possibility of the application getting rejected for the reasons available to the department. In the event of rejection, the petitioner would remain in employment of the respondents and he would have to discharge his duty and therefore he can very well join at the transferred place and appropriate consequential steps can be taken on the application for voluntary retirement in accordance with law.
4. Having heard the contentions put forth on either side and on perusal of the records what admittedly reflects is that the petitioner is a senior citizen over 60 years of age and just about 1 ½ years of service is left for his retirement. This shows that he is at the fag end of his service career and the petitioner at this juncture has already tendered an application for voluntary retirement which is under consideration before the authorities concerned.
5. Considering the aforesaid developments that have transpired, this Court is of the opinion that, in the interest of justice it would be more appropriate if the respondents are directed not to relieve the petitioner from the present place of posting pursuant to the order dated

11.02.2021 till the petitioner completes the notice period of retirement or his application for voluntary retirement stands rejected by the respondent authorities for justifiable reasons and grounds in terms of the rules governing the field, whichever is earlier.

6. Accordingly, the writ petition stands disposed of directing the respondent authorities to ensure that the petitioner is not relieved till the completion of the notice period for retirement or the rejection of the application for voluntary retirement whichever is earlier. In the event the application stands rejected for justifiable reasons, the Department would be at liberty to relieve the petitioner to the transferred place and at the same time the petitioner also would get liberty to question the rejection order.

7. The writ petition accordingly stands disposed of.

**Sd/-
P. Sam Koshy
Judge**