

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 101 of 2021****(Arising out of the order dated 19-1-2021 passed by learned****Single Judge in WPS No. 8653 of 2019)**

R. Murgesh S/o Raju Acharya, Aged About 62 Years, Occupation Registered Contractor in the Water Resources Department of Chhattisgarh, R/o Shubham Vihar, Bilaspur, District- Bilaspur (C.G.)

---- Appellant**Versus**

1. State of Chhattisgarh, through Secretary, Water Resources Department, Mahanadi Bhavan, Mantralaya, Naya Raipur, District- Raipur (C.G.)
2. Engineer-in Chief Water Resources Department, Shivnath Bhavan, Naya Raipur, District- Raipur (C.G.)
3. Chief Engineer, Water Resources Department, Bilaspur, District- Bilaspur (C.G.)
4. Senior Hydrologist Divisional Ground Water Survey, Unit Number 9, Bilaspur, District- Bilaspur (C.G.)
6. Chhattisgarh Pradesh Lipik Vergiya Shaskiya Karmachari Sangh Registration Number 2060/2008 Through State President, Office of Superintending Engineer Circle, Bilaspur (C.G.)
7. Jeevan Lal Bhargav, S/o Late Shri Narayan Bhargava, Aged About 49 Years, presently working as Assistant Grade - II, O/o Executive Engineer Maniyari Water Resources Division Mungeli, District- Mungeli (C.G.)

---- Respondents

For appellant : Mr. Bidyanand Mishra and Mr. N.K. Chatterjee, Advocates.

For respondents/State : Mr. Siddharth Dubey, Dy.G.A.

DB: **Hon'ble Mr. P.R. Ramachandra Menon, Chief Justice &**

Hon'ble Mr. Narendra Kumar Vyas, J.

Judgment on Board

Per Narendra Kumar Vyas, J.

25-03-2021

1. Respondent No.6 Jeevan Lal Bhargav, who is working as Assistant Grade II in the Office of the Executive Engineer, Maniyari Water Resources Division, Mungeli, District Mungeli, has filed Writ Petition No.8653 of 2019 before the learned Single Judge challenging his transfer order dated 05-10-2019, whereby he has been transferred from Mungeli to the office of Water Resources Department, Divisional Office, Survey Unit No.9, Bilaspur. The learned Single Judge vide its order dated 18-10-2019 has stayed the transfer order and as such, the respondent No.6 remained at the same place. The interim order of stay remained operative till 19-10-2021. The learned Single Judge vide its order dated 19-10-2021 has disposed of the writ petition by directing the State not to act upon the impugned order of transfer so far as it relates to respondent No.6. Further directed to the State authority that they have right to pass a fresh order in case any administrative exigency so arises.
2. During pendency of said writ petition No. 8653 of 2019, the appellant who is a registered Contractor in the Water Resources Department, Chhattisgarh has filed an intervention application on 16-09-2020. The said application has not been allowed by the learned Single Judge. After disposal of the writ

petition by the learned Single Judge, on 19-1-2021 the appellant has filed writ appeal before this Court. The main contention of the appellant in the writ appeal is that in view of the interim order passed in the month of October 2019, the petitioner has been continuing in the present place of posting as such quashing of transfer order by order dated 19-01-2021 suffers from error, who hence prays for quashing of the order dated 19-01-2021. The appellant has further prayed for issuance of direction to the State authorities to execute the transfer order dated 5-10-2019 and for immediately relieving the respondent No.6 for joining at his transferred place of posting at Bilaspur.

3. From perusal of the relief sought, it is quite vivid that the petitioner has challenged transfer order of a Government servant. Now the issue to be decided in this appeal is whether the appellant can be called as aggrieved party, whether the appellant has *locus standi* to file present writ appeal challenging transfer order of a Government servant.
4. We have heard Mr. Bidyanath Mishra and Mr. N.K. Chatterjee learned counsel for the appellant as well as Mr. Siddharth Dubey, learned State Counsel for the respondents/State, perused the documents annexed with records.
5. We have to examine *locus standi* of the appellant and can he be termed as aggrieved party to file present appeal. The word

'aggrieved party' has been defined in Blacks Law Dictionary which reads as under.

“A party entitled to a remedy, especially, a party whose personal, pecuniary, or property rights have been adversely affect, by another person’s actions or by a court’s decree or judgment”.

6. It is crystal clear from the legal meaning of ‘aggrieved party’, the appellant should be aggrieved or dissatisfied with the transfer order of respondent N.6. It has been well settled by pronouncement of judgment of the Hon’ble Supreme Court with regard to transfer and posting of Government servant that transfer of a Government servant is prerogative of the Government and no Government servant has right to remain posted in one place of posting. As such, by no stretch of imagination, we can reach to conclusion that the appellant can be an aggrieved person from transfer of Government servant, thus, it cannot be held that appellant is an aggrieved party.
7. The Hon’ble Supreme Court in the matter of **Thammanna Vs. K. Veera Reddy & others**, reported in **(1980) 4 SCC 62**, has examined the word “person aggrieved” in the following manner.

“16. Although the meaning of the expression “person aggrieved” may vary according to the context of the statute and the facts of the case, nevertheless, normally, “a ‘person aggrieved’ must

be a man who has suffered a legal grievance, a man against whom a decision has been pronounced which has wrongfully deprived him of something or wrongfully refused him something or wrongfully affected his titled of something.

8. Thus, from perusal of the judgment of the Supreme Court in **Thammanna (Supra)**, it is crystal clear that the appellant should establish that his any legal right in view of the order of the learned Single Judge is being adversely affected. We have put query with the appellant's counsel to satisfy us how can a registered contractor of the department be aggrieved by transfer order of government servant, but the appellant is unable to satisfy us how can he be called an aggrieved party to challenge transfer of a government servant. From perusal of pleadings, documents annexed with the writ petition and writ appeal, it is clearly established that no legal right of appellant has been adversely affected by the impugned order, as such he is not an aggrieved party.
9. The appellant had also filed an application for intervention in Writ Petition No. 8653 of 2019 on 16.09.2020. The said intervention application has not been allowed by learned Single Judge. Still, the appellant has not filed any application seeking leave to appeal. In absence of any permission to file appeal, we have no option but to dismiss the appeal on this count alone. Since, the appellant was not an aggrieved party either

before the learned Single Judge and he is not adversely affected by the order of learned Single Judge, the writ appeal at the instance of stranger who is a contractor, as stated in the appeal, is not maintainable.

10. Accordingly, the writ appeal being devoid of merit is liable to be and is hereby dismissed. Consequently, I.A No. 01 of 2021 also stands dismissed.

No order as to costs.

Sd/-

(P.R. Ramachandra Menon)
Chief Justice

Sd/-

(Narendra Kumar Vyas)
Judge

Raju