

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 1879 of 2021

Rajendra Singh Tilwar S/o K.P. Singh, Aged About 60 Years Working As Assistant Grade-I, I.T.I. Saddu Raipur, District Raipur (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through Its Secretary, Skill Development, Technical Education And Employment Department, Mantralaya, Mahanadi Bhawan, Naya Raipur Atal Nagar, Raipur (Chhattisgarh)
2. Principal, Industrial Training Institute (I.T.I.), Raipur (Chhattisgarh)

---- Respondents

For Petitioner	:	Mr. Vinod Kumar Deshmukh, Advocate
For State	:	Ms. Hamida Siddiqui, Dy. A.G.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

07/04/2021

1. Challenge in the present writ petition is to the impugned order Annexure P/1 whereby the representation preferred by the petitioner against an order of transfer dated 14.08.2017 has been rejected.
2. The petitioner was working as an Assistant Grade-I at I.T.I., Saddu, Raipur. Vide order dated 14.08.2017 he was transferred to I.T.I. Geedam, District South Bastar, Dantewada. The petitioner preferred a writ petition i.e. WPS No. 4039/2017. The said writ petition was disposed of on 25.08.2017. While disposing of the writ petition, the petitioner was directed to file a representation and the respondents were directed to decide the representation within a period of 3 weeks. It was further observed by this Court that till the representation is decided by the respondents, no coercive step shall

be taken by the respondents compelling the petitioner to proceed on transfer.

3. The petitioner immediately thereafter made a representation on 25.08.2017 itself. However, for well over 3 ½ years the respondents did not take any decision on the representation so made by the petitioner in August, 2017. Now after a period of 3 ½ years the respondents vide the impugned order dated 01.03.2021 have decided the representation and have rejected the same and the petitioner has also said to have relieved from his present place of posting.
4. What needs to be considered at this juncture is that the respondents themselves did not act on the representation of the petitioner for well over a period of 3 ½ years after the disposal of the writ petition granting interim protection to the petitioner. A normal tenure of a person at a particular place is normally considered to be 3 years, the respondents themselves permitted the petitioner to remain at the original place of posting i.e. at Raipur for a further tenure of 3 years. Thus, by the conduct of the respondents the order of transfer dated 14.08.2017 has lost its efficacy.
5. The Government had all the powers within itself to have issued a fresh order of transfer on administrative exigency if it so required. An order which was passed more than 3 ½ years ago and which has not been implemented for all these period and the petitioner having continued at the same place, by itself it has to be presumed that there was no administrative exigency during the intervening period, on account of which the government did not decide the

representation earlier and in due course of time the relevance and efficacy of the order of transfer dated 14.08.2017 was lost.

6. In view of the same, this Court is of the firm view that the impugned order Annexure P/1 dated 01.03.2021 is of no consequence as by efflux of time that has traveled in between. Under the circumstances, this Court is of the opinion that ends of justice would serve if the respondents are restrained from acting upon the order of transfer dated 14.08.2017 and the order dated 01.03.2021 and the subsequent relieving order, reserving the right of the State Government to pass a fresh order of transfer if they so want, in the event of any administrative exigency that arises.
7. It is directed that the respondents shall not act upon the order of transfer dated 14.08.2017 and the subsequent rejection of the representation dated 01.03.2021 and the order of relieving dated 06.03.2020. The petitioner be permitted to continue at the present place of posting itself. However, the right of the State Government stands reserved for passing of a fresh order in case if administrative exigency so warrants in accordance with the Rules and policy governing the field.
8. With the aforesaid observations, the present writ petition at this juncture stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

Ved