

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 116 of 2021**

*(Arising out of order dated 04.03.2021 passed by the learned Single Judge in
WP(S) No. 3900 of 2020)*

- Atul Raj Pegwar (A.R. Pegwar) S/o Shri O.J. Pegwar, Aged About 54 Years R/o House No. 315, In Front Of Nagdaune Floor Mill, Magarpara, Bilaspur, Police Station- Civil Line Bilaspur, District Bilaspur Chhattisgarh

---- Appellant

Versus

1. State of Chhattisgarh Through The Secretary, Public Works Department, Mahanadi Bhawan, New Raipur Chhattisgarh, District : Raipur, Chhattisgarh
2. The Under Secretary, Public Works Department, Mahanadi Bhawan, New Raipur Chhattisgarh, District : Raipur, Chhattisgarh
3. The Engineer In Chief, Public Works Department, Mahanadi Bhawan, New Raipur Chhattisgarh, District : Raipur, Chhattisgarh
4. The Executive Engineer, Public Works Department, Division Korba, District Korba Chhattisgarh, District : Korba, Chhattisgarh
5. Ramnaresh Dubey, Sub Divisional Officer/ Assistant Engineer, Public Works Department, R/o Mig-02/23, C1/c2, R.P. Nagar, Phase-1, Kosabadi Korba, District Korba (Chhattisgarh), District : Korba, Chhattisgarh
6. S.P. Sahu, Sub Divisional Officer/ Assistant Engineer, Public Works Department, Sub Division No. 2 Katghora, District Korba Chhattisgarh, District : Korba, Chhattisgarh

---- Respondents

For Appellant	:	Shri Rishi Rahul Soni, Advocate
For Respondents No.1 to 4/State	:	Shri Sudeep Agrawal, Dy. A.G.
For Respondent No. 5	:	Shri Anshul Tiwari, Advocate

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice

Hon'ble Shri Parth Prateem Sahu, Judge

Judgment on Board

P. R. Ramachandra Menon, C.J.

07.04.2021

1. The interference declined by the learned Single Judge with regard to the transfer of the Appellant, who was working as Sub Divisional Officer, Public Works Department, Sub Division Korba, from Korba to the Office of Engineer-in-Chief, PWD, New Raipur is put to challenge in this appeal.

2. Heard Mr. Rishi Rahul Soni, the learned counsel appearing for the Appellant as well as Mr. Anshul Tiwari, the learned counsel, who entered appearance on behalf of the 5th Respondent, besides Mr. Sudeep Agrawal, the learned Deputy Advocate General representing the State.
3. The sum and substance of the case projected by the Appellant is that the transfer is by virtue of *mala fides* insofar as the 5th Respondent has been extended with undue favours insofar as his transfer order which was rejected earlier came to be reconsidered and he has been accommodated while shifting the Appellant from the present place of posting. The sequence of events has already been taken note of by the learned Single Judge. It is seen that the 5th Respondent herein, who was working as Sub Divisional Officer, PWD, Sub Division No.2, Katghora, District Korba, had been transferred from Katghora to Jagdalpur; which was put to challenge by filing WPS No.7019 of 2019. The said writ petition was disposed of as per judgment dated 03.09.2019, whereby the said writ petitioner – 5th Respondent herein was permitted to file a representation; simultaneously directing the competent authority to have it considered and disposed of in the manner as specified therein. Pursuant to the above direction, the matter was considered and the representation was rejected. Thereafter, it is seen, that the matter was pursued by the 5th Respondent (writ petitioner in WPS No. 7019 of 2019) approaching the departmental authorities concerned. After considering the facts and circumstances afresh, a modified transfer order dated 07.09.2020 was passed, whereby the 5th Respondent has been accommodated in Korba, while the Appellant has been shifted from Korba to the Office of Engineer-in-Chief, PWD, New

Raipur. This made the Appellant to feel aggrieved, who sought to challenge the same by filing WPS No.3900 of 2020, seeking to interdict the transfer. After considering the factual aspects, the learned Judge observed that the writ petitioner, who is the Appellant herein, has been continuing in the present place of posting from the year 2017 onwards. The only grievance raised was with reference to alleged *mala fides*; contending that there was no scope for considering the matter afresh, after rejecting the representation of the 5th Respondent (pursuant to the direction given in WPS No.7019 of 2019). This cannot be said as an instance of *mala fides* insofar as the 5th Respondent, who wanted to pursue the matter was doing so, by filing further representation, projecting his grievance, which came to be considered by the competent authority who passed the impugned order which was put to challenge in the writ petition.

4. The learned counsel representing the 5th Respondent submits that, infact the Appellant has been continuing in the present place of posting from the year 2015 onwards; adding that copies of the relevant documents have already been produced along with the pleadings brought on record. It is also pointed out that, pursuant to the verdict passed by the learned Single Judge, the 5th Respondent has joined duty and that the Appellant stands relieved.
5. In the above circumstances, the liberty granted by the learned Single Judge, enabling the Appellant to prefer a representation and to have it considered, would be suffice to meet the ends of justice. The Appellant is set at liberty to file the representation as above within two weeks from

today; upon which the same shall be considered with regard to all the relevant facts and figures and appropriate order shall be passed by the competent authority within one month thereafter. The '*status quo*' as on date will continue till such time. The Appellant is required to produce a copy of this judgment along with a copy of the writ appeal before the 2nd Respondent for further steps.

6. The appeal stands disposed of.

Sd/-
(P.R. Ramachandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge