

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 3783 of 2021**

K.S. Tomar S/o Late Shri V. S. Tomar Aged About 60 Years Occupation
District Education Officer, District Janjgir Champa Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of School Education, Mantralaya, Mahanadi Bhawan, P. S. Rakhi, Atal Nagar Nawa Raipur District Raipur Chhattisgarh
2. The Under Secretary, School Education Department, Post Office Mantralaya, Mahanadi Bhawan, Atal Nagar Nawa Raipur District Raipur Chhattisgarh
3. The Director Public Instruction Department, Indrawati Bhawan, Post Office Mantralaya, P. S. Rakhi, Atal Nagar Nawa Raipur District Raipur Chhattisgarh
4. Shri Dinesh Kaushik Deputy Director, Samgra Shiksha Rajya Priyojna Pension Bada, Raipur Chhattisgarh

----Respondents

For Petitioner	:	Mr. V.V.S. Murthy, Sr. Advocate along with Mr. Vipin Tiwari, Advocate
For State	:	Mr. Ayaz Naved, G.A.
For Respondent No.4	:	Mr. A.S. Rajput, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****26/07/2021**

1. Aggrieved by the action on the part of the respondents in issuing the impugned order Annexure P/1 dated 14.07.2021 the present writ petition has been filed.
2. Vide the impugned order, the petitioner has been shifted from District Janjgir-Champa to Raipur, whereas the respondent No.4 has been brought in place of the petitioner at District Janjgir-Champa. It has been informed by the counsel for the respondent No.4 that the respondent No.4 has already assumed his duties on

22.07.2021 in compliance to the order of transfer and the petitioner already stands relieved on 23.07.2021.

3. The primary contention of the petitioner assailing the order is that though there is a policy for making a representation before the committee so constituted for redressing the grievances arising out of the order of transfer. However, the fact that the order of transfer has been routed through the office of the Chief Secretary of the State the Committee, which has been constituted in terms of the transfer policy consists of officers lower in rank to the Chief Secretary and therefore the exercise of making a representation may become futile.
4. At this juncture, it is necessary to submit that when the transfer policy has a specific clause for an employee to make representations arising out of an order of transfer, the said Committee in fact stands appointed for and on behalf of the authorities who have issued an order of transfer. The said Committee shall be scrutinizing the representation on its own merits based on the contents of the said representation/objection that an employee shall be raising. On due scrutiny of the representation, the committee shall make appropriate recommendation either rejecting the representation holding it to be devoid of merit or when the Committee finds that the order of transfer seems to have been erroneously issued shall make appropriate recommendation to the same authorities, who have issued the impugned order of transfer. They, in turn shall consider and decide the same in accordance with the recommendations so made. Only because the Forum or the Committee constituted consists of officers lower in rank than the

Chief Secretary would not by itself mean that the Committee would not be in a position to look in to the alleged illegality in the process of issuance of the order of transfer. The Committee has all the powers to scrutinize the same in accordance with the rules, regulations and policies governing the service conditions of the employee and it is expected that the Committee shall fairly considered the same and take an appropriate decision on its own merits.

5. In the instant case, since the order of transfer so far as the respondent No.4 is concerned, since it is already executed and the petitioner also stands relieved, the only recourse now left for the petitioner is to make an appropriate representation, if it has till date not been made to the said Committee at the earliest preferably within a period of 10 days. The Committee in turn shall consider the same on its own merits and take an appropriate decision in accordance with the rules, regulations and policies governing the service conditions of the petitioner preferably within a period of 45 days from the date of receipt of the representation that the petitioner makes.
6. With the aforesaid observations, the present writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge