

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 4842 of 2021

Javed Ali S/o - Late Mohammad Jafar Ali Aged About 54 Years Sanitary Inspector Municipal Corporation Bhilai, District - Durg (Chhattisgarh) R/o- Ayyappa Nagar, Ward No. 8, Behind Idgah Bhilai, District - Durg (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through Deputy Secretary, Urban Administration And Development Department, New Mantralaya, Mahanadi Bhawan, Atal Nagar, Raipur, District - Raipur (Chhattisgarh)
2. Commissioner Municipal Corporation Bhilai, District - Durg (Chhattisgarh)
3. Commissioner Municipal Corporation Raigarh, District - Raigarh (Chhattisgarh)

---- Respondents

For Petitioner	:	Ms. Fouzia Mirza, Sr. Advocate along with Mr. Shobit Mishra, Advocate
For State	:	Ms. Sunita Jain, G.A.
For Respondent No.2	:	Mr. H.B. Agrawal, Sr. Advocate along with Ms. Swati Agrawal, Advocate
For Respondent No.3	:	Mr. Sudeep Agrawal, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

13/09/2021

1. Aggrieved by the order dated 19.08.2021 the present writ petition has been filed. Vide the impugned order the petitioner by a wrong name namely Javed Khan has been transferred from Municipal Corporation, Bhilai to Municipal Corporation Raigarh. Counsel for the petitioner submits that the name of the petitioner in fact is not Javed Khan it is

Javed Ali. It appears that the order of transfer is not that of the petitioner, but is of some other employee of Municipal Corporation, Bhilai.

2. The second ground of the petitioner is that the petitioner vide the impugned order has been transferred to the Municipal Corporation Raigarh on the post of Senior Sanitary Inspector. According to the petitioner, he is substantially holding the post of Sanitary Inspector and now vide the impugned order he is transferred on a higher post of Senior Sanitary Inspector. The contention of the petitioner is that at the Municipal Corporation Raigarh the post of Senior Sanitary Inspector is not available in the setup and therefore there would be difficulty for compliance of the said order.
3. At this juncture learned counsel appearing for the respondent No.1 as also the respondent No.3 submits that the petitioner was substantially holding the post of Sanitary Inspector and the relieving order shows that the petitioner has been relieved from the post of Sanitary Inspector and in all probabilities, the petitioner would have to be sent on the corresponding post in the Municipal Corporation, Raigarh. Counsel for the respondents No.1 & 3 further submits that it is only a clerical error so far as the name of the petitioner being reflected as Javed Khan instead of Javed Ali, whereas in the Department there is only Javed Ali on the post of Sanitary Inspector.
4. There is no dispute so far as the post of the petitioner being transferable and there is also no dispute to the extent of the petitioner's services being transferable from one Municipal Corporation

to another Municipal Corporation. As regards the non-availability of the post, the learned counsel for the respondent No.3 has produced before this Court the setup of the Department and stated that there are two posts of Sanitary Inspector available and both the posts are lying vacant and therefore the petitioner would not find any difficulty in complying with the order of transfer.

5. As regards the claim of the petitioner so far as the claim of the Senior Sanitary Inspector is concerned, it goes without saying that if the respondent No.3 gives the petitioner any higher responsibility other than the post which the petitioner substantively holds, the petitioner would be entitled for the benefits and privileges attached to the said post.
6. With the aforesaid observations, the present writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

Ved