

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****Judgment Reserved on 6.1.2021**  
**Judgement delivered on 13.1.2021****WA No. 463 of 2020**

(Arising out of order dated 26.11.2020 passed by learned Single Judge in WPS No.4918/2020)

- C.L. Ghritlahare, S/o Late Ghaduram Ghritlahare, aged about 61 years, Presently working on yhe post of Chief Executive Officer, Janpad Panchayat Kartala District Korba (CG)

**---- Appellant****Versus**

1. State of Chhattisgarh, through the Secretary, Department of Tribal Development Mahanadi Bhawan Atalnagar New Raipur District Raipur (CG)
2. The Collector, Korba, District Korba (CG)
3. Project Administrator, Integrated Tribal Development Project Korba District Korba (CG)
4. Ashish Dewangan Deputy Collector Korba, District Korba (CG)
5. Radheshyam Mirjha, Regional Organizer, Office of Assistant Commissioner Tribal Development Korba, District Korba (CG)

**---- Respondents**


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|--------------------------|---|-------------------------------------------------|
| For Appellant            | : | Mr. Rakesh Pandey & Mr. A.N. Pandey, Advocates. |
| For Respondent No.1 to 3 | : | Mr. Ashish Tiwari, Govt. Advocate.              |

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**Hon'ble Shri PR Ramachandra Menon, CJ**  
**Hon'ble Shri Parth Prateem Sahu, J****CAV Order****Per Parth Prateem Sahu, J**

1. Order declining interference with the posting order of petitioner/appellant by the learned Single Judge is put to

challenge in this appeal.

2. Facts projected by petitioner/appellant in appeal are that appellant, who was holding the post of Chief Executive Officer, Janpad Panchayat, was initially transferred from the office of Janpad Panchayat Pendra to Janpad Panchayat Kartala, District Korba on administrative ground vide order dated 13.9.2019. In pursuance of the said order, petitioner/appellant was relieved on 4.10.2019 and he joined at the transferred place on 9.10.2019. Appellant could not get charge of Chief Executive Officer at the transferred place, which made him to file writ petition before the High Court bearing WPS No.10323/2019, which came to be decided on 27.1.2020. Pursuant thereto respondents passed order, one Shri G.K. Mishra, who was working as Chief Executive Officer, Janpad Panchayat Kartala, has been posted in the office of Assistant Commissioner and appellant has been given charge of Chief Executive Officer, Janpad Panchayat Kartala. Within few months of taking charge of Chief Executive Officer, Janpad Panchayat Kartala, respondent No.2 passed order dated 19.6.2020 directing appellant to hand over charge of Chief Executive Officer, Janpad Panchayat Kartala to one Devendra Kumar Pradhan, Deputy Collector, Korba for training, which made the appellant to again approach the High Court by filing WPS No.2582/2020. Learned Single Judge taking into consideration facts and circumstances of case stayed the effect and operation of order dated 19.6.2020. Thereafter vide

order dated 10.11.2020 the appellant has been posted as Assistant Project Officer in the office of District Panchayat, Korba. This order was put to challenge by filing a writ petition and learned Single Judge taking note of the fact that it is only change of place of posting and shifting of appellant from one office to another situated within same district and within a short distance, declined interference and dismissed writ petition.

3. Mr. Rakesh Pandey, learned counsel for petitioner/appellant submits that since the date of joining of appellant at Janpad Panchayat Kartala, he has been obstructed to perform his duties for one or other reason which made him to file successive writ petitions. During currency of interim order staying effect and operation of order dated 19.6.2020, respondent No.3 posted the appellant as Assistant Project Officer in the office of District Panchayat, Korba vide order dated 10.11.2020. He submits that appellant, who holds the post of Chief Executive Officer, Janpad Panchayat, cannot be attached in other office as per Circular issued by the State Government. Posting of the appellant is made only to harass him. He further pointed out that the learned Single Judge erred in holding that order dated 10.11.2020 is not a transfer but only change of place of posting, which is not correct. Referring to Rule 2 (b) of the CG Civil Services (Joining Time) Rules, 1982, he submits that transfer is defined and change of place of posting and headquarters comes within the purview of

transfer. Appellant has been transferred within a very short span of time. Appellant joined as Chief Executive Officer, Janpad Panchayat Kartala on 9.10.2019, but charge has been handed over to him only on 29.2.2020, which shows that appellant has worked only for about less than nine months at the said place and again he has been transferred. He further submits that perusal of the order of transfer dated 10.11.2020 would show that transfer order is punitive as order has been passed by way of punishment, which is not sustainable in view of ruling of Hon'ble Supreme Court in the case of Somesh Tiwari vs. UOI reported in (2009) 2 SCC 592. Lastly, he submits that appellant is due to retire within seven months, hence transfer of appellant from one place to another is arbitrary.

4. Per contra, Mr. Ashish Tiwari, learned Government Advocate for the State submits that order dated 10.11.2020 is not in any manner punitive in nature, rather it has been passed only for proper administration of office of the Chief Executive Officer, Janpad Panchayat Kartala. He further submits that learned Single Judge has rightly taken note of the fact appellant has not been posted out of District but he has been posted within district but in different office and that too distance between Kartala and Korba is very short. Appellant will not be adversely affected in any manner in joining at his place of posting i.e. District Panchayat Korba, as Assistant Project Officer. Referring to Annexure P-2, he would submit that

transfer order dated 13.9.2019 would show that appellant is not directly appointed as Chief Executive Officer, but his substantive post is of Block Education Officer and he was working as in-charge Chief Executive Officer, Janpad Panchayat Pendra. Hence submission made by learned counsel for appellant that the Chief Executive Officer, Janpad Panchayat could not be attached to any other office is not correct. He further pointed out that as place of posting of appellant is not far from his initial place of posting and is within same district, even if appellant is superannuating from his service within a period of 07 months, as stated by learned counsel for appellant, then also he will not be adversely affected.

5. We have heard learned counsel for parties.
6. So far as first ground raised by learned counsel for appellant that as appellant is holding post of Chief Executive Officer, he cannot be transferred or attached in any other office, is concerned, perusal of Annexure A-2 would show that appellant is not holding substantive post of Chief Executive Officer, Janpad Panchayat. Substantive post of appellant is Block Education Officer, he was posted as In-charge Chief Executive Officer, hence if appellant has accepted his attachment in the office of Janpad Panchayat, he cannot raise his grievance that he cannot be posted in any office except Janpad Panchayat. Hence aforementioned submission of learned counsel for appellant that appellant cannot be posted to any other office

except Janpad Panchayat is not sustainable and it is hereby repelled.

7. Next ground raised by learned counsel for appellant is that transfer order is punitive in nature. Perusal of order dated 10.11.2020 would show that respondent No.3 has only mentioned that work of appellant is not satisfactory, he has been posted in the office of District Panchayat, Korba as Assistant Project Director. Taking into consideration contents of the order (Annexure A-11), which is Annexure P-1 to writ petition, we find it difficult to accept submission made by learned counsel for appellant that the order is punitive. It is for the higher officials to ascertain whether work performed by any employee is upto mark or not and the Court cannot look into this ground with a microscopic eye, particularly in case of transfer or change of place of posting within same district. Case relied upon by appellant of Somesh Tiwari (supra) is on different facts and not applicable to the facts of present case. In that case some anonymous complaint was made, which was enquired and nothing adverse was found against petitioner. He was transferred to Shillong from Bhopal (M.P).
8. Another ground raised by appellant is that appellant has been transferred ignoring that he is due to retire within a period of seven months. Looking to the distance between earlier place of posting and present place of posting i.e. Kartala and Korba, which are situated within same District, it does not appear that appellant will be affected in any manner if he will join at his

new place of posting i.e. District Panchayat, Korba.

9. For the foregoing reasons, we do not find any tenable ground calling interference in the impugned order. Appeal being devoid of substance is liable to be dismissed and it is hereby dismissed. No order as to costs.

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

Sd/-  
(Parth Prateem Sahu)  
Judge

roshan/-