

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 478 of 2020**

(Arising out of order dated 4.12.2020 passed by learned Single Judge in WPS No.5109/2020)

- Sunil Kujur, S/o Late Shri Kalyan Kujur, aged about 51 years, Occupation - Service, working as Patwari, at Patwari Halka No.04, Circle - Kansabel, Sub Division - Bagicha, District - Jashpur (CG)

---- Appellant /Petitioner**Versus**

1. The State of Chhattisgarh, through the Secretary (Wrongly Mentioned as Chief Secretary), Department of Revenue, Government of Chhattisgarh, Naya Raipur, Tahsil and District - Raipur (CG)
2. The Collector, Jashpur, District Jashpur (CG)
3. The Sub Divisional Officer (Wrongly Mentioned as Sub Divisional Magistrate) (Revenue), Bagicha Division, District - Jashpur (CG)
4. Shri Pradeep Kumar Nayak, P.C. No.16, Bans Bahar, Tahsil Kansabel, District - Jashpur (CG)

---- Respondents

For Appellant : Mr. A.N. Bhakta, Advocate
 For Respondent No.1 to 3 : Mr. Ashish Tiwari, Govt. Advocate

Hon'ble Shri PR Ramachandra Menon, CJ**Hon'ble Shri Parth Prateem Sahu, J****Order On Board****Per Parth Prateem Sahu, J****06/01/2021**

1. Challenge in this writ appeal is to the order dated 04.12.2020 passed in Writ Petition (S) No.5109/2020 whereby learned Single Judge refused to interfere with the order of transfer of petitioner/appellant dated 26.11.2020 transferring him from Kansabel to Bagbahra, District Jashpur.
2. Facts of the case, in brief, are that petitioner/appellant is working as Patwari. Vide order dated 29.9.2020 passed by

respondent No.3 petitioner/appellant has been transferred from P.H. No.7- Semarkachhar Lapai to PH No.4-Kansabel. Petitioner/appellant joined at the transferred place vide letter dated 16-17/11/2020. Respondent No.2 vide order dated 26.11.2020 again transferred petitioner/appellant from PH No.4 to PH No.16-Bansbahar, which made the petitioner to approach the High Court by filing writ petition bearing WPS No.5109/2020 with the following reliefs:-

“(I). That, the Hon'ble Court be pleased to quash order dated 26/11/2020 - Annex.P2 by issuing writ of MANDAMUS or any other writ deemed fit in the interest of justice.

(II) That Hon'ble Court be please to mould the relief as and when required in the interest of justice.”

(III) That the Hon'ble Court be pleased to issue any other writ or writs, order orders, directions or directions, deemed fit in the interest of justice.”

3. Learned Single Judge upon considering the submissions made by learned counsel for petitioner therein, declined to interfere with order dated 26.11.2020 and dismissed writ petition vide order dated 4.12.2020 reserving right of the petitioner to approach respondent No.2 for redressal of his grievance.
4. Mr. A.N. Bhakta, learned counsel for petitioner/appellant submits that the order dated 26.11.2020 has been passed only to accommodate respondent No.4. He submits that vide order dated 29.9.2020 (Annexure A-3) as many as 12 employees including respondent No.4 and petitioner/appellant have been transferred. Respondent No.4 has been transferred from PH No.4 Kansabel-2 Bataikela to PH No.16-Bansabahar. Vide

order dated 26.11.2020 respondent No.4 has again been brought back to the same place of posting from where he was transferred vide order dated 29.9.2020. He further contended that learned Single Judge has recorded that by order dated 26.11.2020 appellant has not been transferred but only his place of posting has been changed, is not correct. He submits that the word 'transfer' has been defined under Rule 2 (b) of the CG Civil Services (Joining Time) Rules, 1982, according to which, change of head-quarter also amounts to transfer and vide order dated 26.11.2020 the place of posting of petitioner/appellant has not been changed, infact he has been transferred from one place to another. He further contended that wife of appellant is also a government employee and working as Shiksha Karmi Grade-3. She was initially posted at Government Primary School, Gunjiyabor, District Janjgir Champa, she has also been transferred to Janpad Panchayat Kansabel, District Jashpur. Order of transfer dated 26.11.2020 has been passed in violation of Clause 1.1 of the transfer policy as appellant has been transferred during ban period and proper approval of the In-charge Minister has not been obtained. Lastly, he contended that petitioner/appellant will suffer adversely as he has been transferred within a period of two months from the date of his earlier order of transfer, hence the order of transfer dated 26.11.2020 and the impugned order passed by learned Single Judge are liable to be interdicted.

5. Mr. Ashish Tiwari, learned Government Advocate for the State

controverted the submissions made by learned counsel for appellant and submitted that a bare perusal of order dated 26.11.2020 would reveal that it is not a transfer order but a posting order to ensure smooth working. Appellant has already made representation on 5.12.2020 before respondent No.2, which is pending consideration, and learned Single Judge has also granted liberty to petitioner/appellant to approach respondent No.2 for redressal of his grievance. Appellant can very well pursue his representation. There is no infirmity in the order passed by the learned Single Judge warranting interference.

6. At this stage, learned counsel for appellant submits that looking to transfer of appellant within a period of two months and inaction of respondent No.2 in not deciding representation of appellant, this appeal may be disposed of with a direction to respondent No.2 to decide representation of appellant within a time frame and till then interim protection may be granted to appellant as he is required to handover charge latest by today.
7. Taking into consideration overall facts and circumstances, particularly passing of the order of change of place of posting of appellant within a period of two months from the date of his earlier order of transfer, we find it appropriate to direct respondent No.2 to decide representation dated 5.12.2020 (Annexure A-8) submitted by appellant.
8. Accordingly, writ appeal stands disposed of with a direction to respondent No.2 to consider and decide representation of

appellant within a period of two weeks from today. Till then the *Status Quo*, as it exists today, with respect to place of posting of appellant shall be maintained. Appellant is directed to place a copy of this order along with writ appeal before respondent No.2 within a period of one week.

Sd/-
(P. Ramchandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge

roshan/-