

HIGH COURT OF CHHATTISGARH, BILASPUR

WA No. 400 of 2021

- R.K.Soni S/o Late Shri S.S. Soni Aged About 61 Years, R/o Plot No. R-C-5, Ravi Shankar Nagar, Korba, District Korba, Chhattisgarh.

---- Appellant

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Power And Energy, Mantralaya, Mahanadi Bhawan, Atal Nagar, Raipur, District Raipur, Chhattisgarh.
2. Chhattisgarh State Power Generation Company Limited (CSPGCL) Through Managing Director, (Gen.) Sakti Bhawan, Daganiya, Raipur, District Raipur, Chhattisgarh.
3. Chhattisgarh State Power Generation Company Limited (CSPGCL) Through General Manager / Ed (Finance), Sakti Bhawan, Daganiya, Raipur, District Raipur, Chhattisgarh.
4. Chhattisgarh State Power Generation Company Limited (CSPGCL) Through General Manager (HR), Sakti Bhawan, Daganiya, Raipur, District Raipur.
5. Suman Yadav Deputy General Manager (DGM), Posted At Madwa Project, District Janjgir-Champa, Chhattisgarh.

---- Respondents

For Appellant	:	Mr. Rajesh Roshan Singh, Advocate.
For Respondent No. 1/State	:	Mr. Sunil Otwani Additional Advocate General along with Mr. Sudeep Agrawal Dy. G.A.

Hon'ble Mr. Justice P. Sam Koshy

Hon'ble Mr. Justice Arvind Singh Chandel

Judgment on Board by Hon'ble Mr. Justice P. Sam Koshy

26/11/2021

1. Aggrieved by the judgment dated 22.11.2021 passed in W.P. (S) No.

6414/2021, the present appeal has been filed. In the original writ petition, the Appellant has assailed the order of transfer, transferring the Appellant/Petitioner from the office of the Respondents at Korba West-II Marwa, District Janjgir Champa.

2. The substantial ground raised by the Appellant was that the order of transfer is bad on account of the short service left for the Appellant to retire as there was only about nine months left. The learned Single Bench after due consideration of the contentions and submissions made by the Petitioner on filing contradictory statements made in the pleading with the writ petition towards the pleading made in the representation of the Petitioner against the order of transfer, dismissed the said writ petition. Thereafter, the appeal has come up before this Court.
3. When the matter was taken up for hearing, the Learned Counsel for the Appellant on a query put by the Bench 'can it be accepted the fact that there has been an ex-parte order of relieving, issued against the Appellant/Petitioner'. Questions to the said order also on the ground of the competency of the authority who were issued the same. All have been done, the Appellant/Petitioner stands relieved from his post at West Korba.
4. Learned Counsel for the Appellant submits that in terms of the transfer policy applicable under the Respondent's establishment, Clause 3.3 provides that an employee/officer who has got less than two years of service could be given a choice posting at the fair of his service carrier and therefore since the Appellant has got only 9 months of service left he should not disturb at this juncture by way of

a transfer and more over since Korba is his hometown, he should not have been disturbed without the competent from the Appellant/ Petitioner. Even the fact that the Respondents have already issued an order of relieving and the Respondent No. 5 have also reported for duty at the place where the Petitioner was transferred from.

5. Learned counsel appearing for the appellant further submits that under the transfer policy the department themselves have envisaged that under the normal circumstances an employee should not be transferred unless he completes the normal tenure of posting at a particular station. In the instant case, according to the appellant, he was posted at the present place i.e. Korba West-II, Marwa only in the year, 2019 and therefore he has not completed the requisite tenure under the transfer policy and the impugned order of transfer on this ground also is bad.
6. On consideration of the submissions made by the counsel for the appellant, we found that the petitioner was ordered to be replaced on transfer by respondent No.5 and there is already an order of relieving issued to the appellant. Though the order of relieving has not been served, but for all practical purposes the relieving order having been issued, the only relief that this Bench could give at this juncture in the factual measure is that of permitting the Appellant to file a detailed representation and seeking for in accommodated at District Korba itself since it is his home town and he has got just around 8 months of service left for retirement. The Appellant submits that he has already made a representation, however he would seek the liberty to file a fresh detailed representation in this regard to the Respondents No. 2

& 3 and the Respondents No. 2 & 3 are directed to ensure that the representation made by the Petitioner is positively considered and appropriate decision is taken at the earliest within an outer limit of 30 days from the date of filing of the fresh representation by the Appellant/Petitioner.

7. Till the Respondents taken appropriate decision, the Respondents have also expected not to take any coercive steps against the Appellant/Petitioner towards non-compliance of the order of transfer.
8. Accordingly, the appeal stands disposed of.
9. Certified copy today.

Sd/-
(P. Sam Koshy)
Judge

Sd/-
(Arvind Singh Chandel)
Judge