CGHC010405562026 2026:CGHC:46423-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WA No. 1063 of 2026

Surendra Prasad Dubey @ Surendra Kumar Dubey S/o Shri Bhagwan Prasad Dubey, Aged About 57 Years, R/o Village- Koylari, P.S. - Bhaiyathan, Tahsil – Bhaiyathan, Distt- Surajpur, C.G.

... Appellant

versus

1. State of Chhattisgarh Through - The Secretary, School Education Department Mantralaya, Naya Raipur, Distt- Raipur- C.G.
2. Under Secretary, School Education Department Mantralaya, Naya Raipur, Distt - Raipur C.G.
3. Collector and District Mission Director, Samagra Shiksha, Distt- Surajpur C.G.
4. District Project Director, Samagra Shiksha, Distt - Surajpur, C.G.
5. Diwakar Prasad Jaiswal, Headmaster, Govt. Middle School, Masanki, Block-Odagi, Distt- Surajpur C.G.

... Respondent(s)

For Appellant	:	Mr. A. N. Pandey, Advocate.
For State	:	Ms. Anuja Sharma, Deputy Government Advocate.
For Respondent No.4	:	Mr. Animesh Tiwari, Advocate.

Hon'ble Shri Krushna Ram Mohapatra, Chief Justice
Hon'ble Shri Santosh Sharma, Judge

Order on Board

***Per* Krushna Ram Mohapatra, Chief Justice**

03.11.2026

1. Heard Mr. A. N. Pandey, learned counsel appearing for appellant as well as Ms. Anuja Sharma, Deputy Government Advocate, appearing for the State and Mr. Animesh Tiwari, learned counsel appearing for respondent No.4.

2. This intra-Court appeal has been filed assailing the order dated 30.09.2026 passed by learned Singh Judge in WP(S) No. 7194/2026 (Annexure A/1). In the writ petition, the appellant herein being the petitioner challenged the order dated 08.09.2026, whereby the respondent No.5 who was working as Headmaster at Government Middle School, Masanki, Block Odgi, District- Surajpur was posted on deputation as Block Resource Coordinator, Block Resource Centre, Bhaiyathan, District – Surajpur where the appellant was continuing.

3. The learned Single Judge, taking into consideration the rival contentions of the parties, the circular dated 02.04.2009, and the provisions of the Chhattisgarh School Education Services (Educational and Administrative Cadre) Recruitment and Promotion Rules, 2026 (hereinafter referred to as 'the Rules, 2026'), dismissed the writ petition.

4. Learned counsel for the appellant, assailing the order of the learned Single Judge (Annexure A/1), submits that respondent No. 4 was continuing as Headmaster in a Government Middle School. Thus, he could not have been posted as Block Resource Coordinator (BRC), as only a Lecturer can be posted to that post. The appellant was holding the post of Lecturer and was rightly posted as BRC. The appellant was transferred and posted as BRC vide order dated 01.09.2025 (Annexure A/2), and he has not completed two years of service in the said post. Thus, he could not have been disturbed as a consequence of the transfer of respondent No. 5 to the post where he is presently posted. Learned counsel for the appellant verily relies upon the circular dated 05.06.2025 and submits that normally, a Lecturer should not be disturbed from a place where he has not completed two years of service. Since the appellant has not completed two years of service, he could not have been transferred vice respondent No. 5.

5. It is submitted that the learned Single Judge did not take into consideration these material aspects and passed the impugned order. Hence, the impugned order (Annexure A/1) is not sustainable and is liable to be set aside.

6. Ms. Sharma, learned Deputy Government Advocate opened her arguments by drawing our attention to the opening paragraph of circular dated 05.06.2025 (Annexure A/7) which reads as under:-

> "राज्य शासन एतद्द्वारा पूर्व में जारी स्थानांतरण नीति को अधिक्रमित करते हुए निम्नानुसार स्थानांतरण नीति/प्रक्रिया निर्धारित की जाती है। यह स्थानांतरण नीति गृह (पुलिस) विभाग, आबकारी विभाग, खनिज साधन विभाग, परिवहन विभाग, वाणिज्यकर विभाग, पंजीयन विभाग, स्कूल शिक्षा विभाग के अंतर्गत शिक्षाकीय कार्य में पदस्थ शिक्षकगणों तथा राज्य के निगम/मण्डल/आयोगों एवं स्वायत्त संस्थाओं पर लागू नहीं होंगे।"

7. She, therefore, submits that this circular is not applicable to the employees of the School Education Department of Chhattisgarh. She further submits that the posts of Headmaster of Middle School and Lecturer belong to the same cadre and that their promotional post is Principal in terms of the provisions of the Rules, 2026. Thus, there was no difficulty in posting respondent No. 5, who was the Headmaster of a Middle School, to the post of BRC. She further submits that the learned Single Judge has taken into consideration the rival contentions of the parties and discussed the same in detail before arriving at the impugned conclusion. The circular (Annexure A/7) is not mandatory and is being followed as far as practicable. There is no provision under law prohibiting the transfer of a Teacher/Lecturer within two years of joining a post. Thus, there is no illegality in the impugned order (Annexure A/1). She, therefore, prays for dismissal of the writ appeal.

8. Learned counsel appearing for respondent No.4 supports the contentions

raised by Ms. Sharma, learned Deputy Government Advocate.

9. Taking note of the submissions made by learned counsel for the parties and on perusal of the record, more particularly, the writ petition, the impugned order, as well as the documents placed before us, we find that the appellant was posted as BRC at Bhaiyathan, District Surajpur, with effect from 01.09.2025. He had not completed two years in the said post by the time the impugned order dated 08.09.2026 was passed, whereby respondent No. 5 was posted in his place as BRC. The opening paragraph of Annexure A/7, as quoted above, suggests that the circular is not applicable to the Teachers/Lecturers of the School Education Department.

10. Of course, learned counsel for the appellant submits that the appellant was not continuing in a teaching post, as he was posted as BRC by virtue of the order under Annexure A/2.

11. On consideration of the materials and records, we find that the appellant was posted as BRC. However, he belongs to the cadre of Lecturer under the School Education Department. Respondent No. 5 was also continuing as a Headmaster and belongs to the School Education Department. Both of them belong to the teaching cadre of the School Education Department. Thus, the provisions of the circular under Annexure A/7 are not strictly applicable to them. On perusal of Annexure A/7, it is manifest that the provisions therein are not mandatory in nature but discretionary. The provisions of such circular are to be made applicable as far as practicable. Further, no material is placed before us prohibiting the transfer of the appellant within two years from the date of his joining as BRC.

12. It further appears that the Headmaster and Lecturer of a Middle School belong to the same cadre and that their promotional post is Principal, as per

Serial No. 7 of Schedule IV of the Rules, 2026. In that view of the matter, both of them belong to the same cadre. Hence, the submission of learned counsel for the appellant that respondent No. 5 could not have been posted as BRC is not acceptable.

13. Taking into consideration the discussions made above and the facts and circumstances of the case, we are of the considered opinion that the learned Single Judge has discussed the matter in detail before arriving at the conclusion. We find no infirmity in the impugned order (Annexure A/1). Accordingly, the writ appeal, being devoid of merit, is **dismissed**.

Sd/-
(Santosh Sharma)
Judge

Sd/-
(Krushna Ram Mohapatra)
Chief Justice

Preeti