



NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No.2204 of 2023

Nekram Sahu S/o Shri Kartik Ram Sahu Aged About 52 Years Occupation Working As Gov. Lecturer, Posted At Government Higher Secondary School, Saloni, Block Nagri, P.S. Keregaon, District Dhamtari (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Department Of School Education, Mantralaya, Mahanadi Bhawan, Atal Nagar, New Raipur, District Raipur (Chhattisgarh)
2. Additional Secretary Department Of School Education, Mantralaya, Mahanadi Bhawan, Atal Nagar, New Raipur, District Raipur (Chhattisgarh)
3. District Education Officer Dhamtari, District Dhamtari (Chhattisgarh)
4. Vijay Kumar Jaganayak Lecturer Lb, Gov. High School, Deharguda, Block Mainpur, District Gariyaband, Gariyaband (Chhattisgarh)
5. Samanway Samiti Raipur (Chhattisgarh) Through Principal Secretary Home And Forest Department Raipur

---- Respondents

For Petitioner : Mr. Shubham Tripathi, Advocate
For Respondents No.1,2 & 3/State : Mr.Sandeep Dubey, Dy. A.G.

Hon'ble Shri Justice Rakesh Mohan Pandey

Order on Board

04-04-2023

Heard.

1. It is the second round of litigation as the representation made by the petitioner before the Committee has been rejected vide order dated 14.02.2023.
2. The petitioner, who is posted as Lecturer (English) at Art Government, Higher Secondary School, Saloni, District Dhamtari, was transferred on 30.09.2022 from present place of posting to Government High School, Deharguda, Block Division Mainpur, District Gariyaband on



administrative ground.

3. Earlier petition was preferred on the ground that respondent No.4 has been recommended in place of the petitioner, wife of the petitioner is suffering from Slip Disk and the petitioner has been transferred 200 km. away from the present place of posting. This Court in WPS No.7109/2022 vide order dated 09.11.2022, granted liberty to the petitioner to move representation before the Committee.

4. The Committee vide order dated 14.02.2023 held that in the transfer policy, there is no such provision to place other spouse at the same place and consequently, the representation has been dismissed.

5. Learned counsel for the petitioner would submit that the Hon'ble Supreme Court in the case of **SK Naushad Rahman & Ors. VS. Union of India & Ors., 2022 Live Law (SC) 266**, in para 51 has held as under :-

“51 The State in the present case has been guided by two objectives: first, the potential for abuse of ICTs and second, the distortion which is caused in service leading to plethora of litigation. The State while formulating a policy for its own employees has to give due consideration to the importance of protecting family life as an element of the dignity of the person and a postulate of privacy. How a particular policy should be modulated to take into account the necessities of maintaining family life may be left at the threshold to be determined by the State. In crafting its policy however the State cannot be heard to say that it will be oblivious to basic constitutional values, including the preservation of family life which is an incident of Article 21.”

6. I have heard learned counsel for the parties.

7. When specific question is raised, learned counsel for the petitioner is unable to reply to the fact that from which date the petitioner is posted



at the transferred place of posting. It appears that since long the petitioner is posted at the present place of posting and he was transferred vide order dated 30.09.2022. Liberty was granted to the petitioner to make representation which has already been rejected by the Committee after considering all these aspects of the matter.

8. Considering the fact that the petitioner is posted at the present place of posting since long and earlier writ petition was dismissed and no interim protection was granted and respondent No.4 has already joined at the present place of posting and petitioner has been relieved. Further the petitioner has not taken plea of incompetency of authority, issuing transfer order or transfer order is malafide or its affects service conditions of the petitioner. The petition being devoid of merits, therefore, hereby dismissed.

9. Taking into consideration the judgment passed by the Hon'ble Supreme Court, the State Government is directed to revisit the transfer policy to accommodate posting of spouses at the same place.

Sd/-

(Rakesh Mohan Pandey)
Judge