



NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 2605 of 2023

Lekhram Dewangan S/o Late K.R. Dewangan Aged About 59 Years R/o Vasundhara Nagar, Raipur (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Schedule Caste And Schedule Tribe Development, Capital Complex, Atal Nagar, Raipur (Chhattisgarh)
2. Commissioner Department Of Schedule Caste And Schedule Tribe Development, Capital Complex, Atal Nagar, Raipur (Chhattisgarh)
3. Collector Gariyaband, District Gariyaband (Chhattisgarh)
4. Assistant Commissioner Tribal Development, Gariyaband, District Gariyaband (Chhattisgarh)

....Respondents

For Petitioner : Mr. Sudeep Johri, Advocate
For State : Ms. Sunita Jain, G.A.

Hon'ble Shri Justice Rakesh Mohan Pandey
Order on Board

24.04.2023

Heard.

1. This petition has been filed against transfer order dated 10.09.2022, whereby, the petitioner, who is holding the post of Accountant, has been transferred from the office of Assistant Commissioner Tribal Welfare Department, Gariyaband to Office of Chief Executive Officer, Janpad Panchayat, Chhura on administrative ground.

2. Learned counsel for the petitioner would submit that in the office of Chief Executive Officer, Janpad Panchayat, Chhura, post of Accountant is not available. He has placed set up of Chief Executive Officer, Janpad Panchayat dated 25.04.2005, according to which, there is no set up of



Accountant in the office of Chief Executive Officer, Janpad Panchayat, Chhura. He would further submit that petitioner was promoted to the post of Upper Division Clerk in the year 1997 and in the year 2008, he was promoted to the post of Accountant. Therefore, he cannot be transferred to lower post which he is having at present. With regard to document supplied by learned counsel for the State, he would submit that according to set up, there is only one post of Upper Division Clerk cum Accountant, whereas, the petitioner was already promoted to the post of Accountant in the year 2008, therefore, he cannot be transferred to the post of Upper Division Clerk cum Accountant. Thus, he would pray that the order of transfer may be set aside.

3. On the other hand, learned counsel for the State would submit that the petitioner was transferred vide order dated 10.09.2022 and he has been relieved vide order dated 02.03.2023. She would further submit that according to set up of Janpad Panchayat, Chhura, post of Accountant is lying vacant. She has placed set up of Janpad Panchayat Chhura, on instructions, today itself.

4. I have heard learned counsel for the parties and perused the document annexed along with this petition.

5. From the document which has been placed during the course of argument by learned counsel for the State, it is quite vivid, post of Accountant is available and it is lying vacant and the petitioner has been transferred against sanctioned and vacant post and the petitioner is posted at the present place of posting since 2014. Transfer is an incident of service. The transfer order can be interfered with when it has been



issued by the Authority, who is not competent, or it affects service condition of an employee or there is allegation of malafide. In the present case, none of the ingredients is available. The post of Accountant is very much available in the office of Janpad Panchayat, Chhura. Therefore, in the opinion of this Court, there is no legal ground to interfere with the transfer order. Consequently, the petition is dismissed.

Sd/-

(Rakesh Mohan Pandey)
Judge

Rekha

