

(2019) 02 CHH CK 0327

Chhattisgarh High Court

Case No: Writ Petition (S) No. 1096 Of 2019

Arvind Kumar Chaurasia

APPELLANT

Vs

State Of Chhattisgarh And Ors

RESPONDENT

Date of Decision: Feb. 19, 2019

Hon'ble Judges: P. Sam Koshy, J

Bench: Single Bench

Advocate: Mateen Siddiqui, P. Acharya

Final Decision: Disposed Of

Judgement

P. Sam Koshy, J

1. The petitioner in the instant Writ Petition is aggrieved of the Annexures P/1 & P/2 dated 31/05/2018 and 04/02/2019 respectively.

2. Annexure-P/1 is an order of transfer whereby the petitioner has been sent on deputation from the Public Works Department to the Chhattisgarh Road Development Project, Bilaspur.

3. The petitioner is also aggrieved of Annexure-P/2 which is an order of relieving him from his present place of posting vide order dated 04/02/2019.

4. The solitary ground of challenge is that, the petitioner has been sent on deputation without taking his consent which otherwise is impermissible under the service rules. He further submits that, though the petitioner was sent on deputation vide order dated 31/05/2018, but since the petitioner had immediately represented the respondents had not acted upon the same but have now vide the impugned order - Annexure-P/2 relieved the petitioner which led to the filing of the instant Writ Petition.

5. The State counsel on the contrary opposing the petition submits that, it is a usual order of transfer and since the petitioner is being sent to a project, it has been technically mentioned as he being sent on deputation, otherwise it is only a transfer and that the said order would not be in any manner detrimental to the service conditions of the petitioner.

6. According to the State counsel, the petitioner moreover should not be aggrieved of the impugned order for the reason that, the petitioner is being transferred from Bilaspur to Bilaspur as he is presently working as Sub Divisional Officer, Public Works Department, High Court, Sub-Division-1 and is being sent on deputation as the in-charge, Executive Engineer/Project Manager, Chhattisgarh Road Development Project, Bilaspur and thus prayed for rejection of the Writ Petition.

7. Having heard the contentions put forth on either side and on perusal of record, so far as law in respect of an employee being sent on deputation is concerned, it is the requirement of law that the before sending an employee on deputation, his consent is to be obtained.

8. Moreover, there has to be a consent obtained from the parent department as well as to the borrowing department.

9. In the instant case, there does not seem to be any such correspondences available.

10. These being the factual matrix, the order so far as sending the petitioner on deputation to a different department does not seem to be prima-facie justified.

11. Accordingly, let the petitioner's transfer order be placed before the respondent No.1 for reconsideration of his transfer and a suitable order be passed in this regard.

12. Till the fresh order is passed, the effect and operation of the abovesaid two impugned orders shall not be given effect to.

13. Needless to mention that, if administrative exigency so requires, the respondents would be at liberty to pass fresh orders or modify the original order of transfer so far as transferring the petitioner to a different location other than being sent on deputation.

14. The Writ Petition accordingly stands disposed off.