



HIGH COURT OF CHHATTISGARH, BILASPUR

S.B.: HON'BLE MR. JUSTICE SUNIL KUMAR SINHA

Writ Petition (S) No. 6914 of 2008

A.A. Siddique

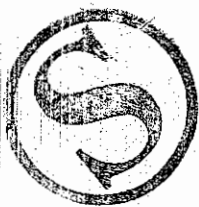
Vs.

State of Chhattisgarh & Others

ORDER

Post for Order: 30/11/2010

Sd/-
Sunil Kumar Sinha
Judge

**HIGH COURT OF CHHATTISGARH, BILASPUR****S.B.:****HON'BLE MR. JUSTICE SUNIL KUMAR SINHA****Writ Petition (S) No. 6914 of 2008****PETITIONER**

A.A. Siddique, S/o Shri Iqbal Ahmad, Aged about 55 years, R/o Janpad Panchayat, Pathriya, Bilaspur, Tahsil and District- Bilaspur (C.G.)

Versus**RESPONDENTS**

- 1 State of Chhattisgarh, Through: Secretary, Panchayat and Rural Development Department, D.K.S. Bhawan, Mantralay, Raipur (C.G.)
- 2 Chhattisgarh Rural Road Development Authority, Through: Chief Executive Officer, Civil Lines Raipur (C.G.)
- 3 Superintendence Engineer, Pradhan Mantri Gram Sadak Yojna Office of Vikas Ayukta, Raipur (C.G.)
- 4 Project Implementation Unit, Through: Executive Engineer, Pradhan Mantri, Gramin Sadak Yojna, Raigarh, District Raigarh (C.G.)

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA**Appearance:**

Mr. Sandeep Dubey, Advocate for the petitioner.

Mr. S.K. Mishra, Panel Lawyer for the State/respondents.

ORDER**(30.11.2010)****SUNIL KUMAR SINHA, J.**

(1) Petitioner- A.A. Siddique is working on the post of Sub-Engineer in Janpad Panchayat, Pathariya, Tahsil & District Bilaspur (C.G.). The petitioner was initially appointed on the post of Sub-Engineer (Civil) on 28.12.79 in Water Resources Department (WRD). Thereafter by an order dated 24.9.96, the petitioner was sent on deputation to Panchayat and

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Rural Development Department. By the impugned order dated 1.10.2008 (Annexure-P/1), the petitioner has been sent from Janpad Panchayat, Pathariya, District Bilaspur to Project Implementation Unit No.1, Pradhan Mantri Gram Sadak Yojna (PMGSY), Raigarh, District Raigarh. The petitioner has challenged the validity of the order on the ground that PMGSY is different identity and is no the concern of RES Department where the petitioner was sent on deputation, therefore, attachment of the petitioner to PMGSY from RES amounts to further deputation which could not have been done without obtaining consent from the parent department as also from the petitioner, therefore, the impugned order of transfer/attachment dated 1.10.2008 (Annexure-P/1) is bad-in-law.

(2) The respondents have filed their return. They have admitted that the petitioner was an employee of Water Resources Department and he was sent on deputation to RES Department. Their contention is that by the impugned order his services have been simply attached with the Implementation Unit of PMGSY, Raigarh, therefore no consent was required from the petitioner as the PMGSY is a Central Scheme and State Government is only Implementation Agency of the said scheme through Rural Engineering Services Department. They have further contended that the order dated 1.10.2008 was a transfer order and was issued in administrative exigencies in rationalization.

(3) A rejoinder has also been filed by the petitioner saying that in an identical petition filed by the co-employees of the petitioner who were also transferred by the impugned order (W.P.(S) No. 7165/2008 - M.D. Chandra & another -Vs- State of Chhattisgarh & others), respondents have filed their return and have admitted that the said incident of



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attachment done by the impugned order dated 1.10.2008 was in fact a deemed deputation in vacancies existing in the various posts of Unit of PMGSY. The copy of the return filed in W.P.(S) No. 7165/2008 has been filed as Annexure-P/12.

(4) This Court while entertaining the writ petition on 12.12.2008 issued notices to the respondents and passed an interim order that in the meanwhile, the effect and operation of the impugned order dated 1.10.2008 (Annexure-P/1), so far as it relates to the petitioner, shall remain stayed till the next date of hearing. This interim order was later on continued and by order dated 11.8.2010 the application for vacating stay filed by the respondents was also dismissed. It is stated at bar that as an effect of the interim order granted 12.12.2008 the petitioner is still continuing at his present place of posting.

(5) Be that as it may, considering the facts and circumstances of the case particularly the circumstance that it was a matter of attachment and the petitioner was granted stay on 12.12.2008 and he is still continuing on the same post and the impugned order could not be given effect to, and a long time has elapsed after passing of the impugned order, I deem it appropriate to dispose of this matter simply by setting aside the impugned order without expressing any opinion on the controversy *inter-se* raised by the parties.

(6) Accordingly, the writ petition is disposed of and the impugned order dated 1.10.2008, so far as it relates to the petitioner, is set-aside.

(7) No cost.

Sd/-
Sunil Kumar Sinha
Judge