

(2018) 08 CHH CK 0205
In the Chhattisgarh High Court
Case No : Writ Petition (S) No. 5236 Of 2018

H. N. Singh

APPELLANT

Vs

State Of Chhattisgarh And Ors

RESPONDENT

Date of Decision : 21-08-2018

Acts Referred:

Citation : (2018) 08 CHH CK 0205

Hon'ble Judges : P. Sam Koshy, J

Bench : Single Bench

Advocate : Hemant Kesharwani, Astha Shukla

Final Decision : Allowed

Judgement

P. Sam Koshy, J

1. The order under challenge is Annexure P/1 dated 26.07.2018, whereby the services of the petitioner working as a Sub-Divisional Officer under the

Rural Engineering Services, Sub Division Korba has been attached to the office of Zila Panchayat, Korba by an order issued by the Chief Executive

Officer, Zila Panchayat, Korba.

2. The challenge in the present writ petition is that the Government vide order dated 04.06.2001 and which still holds good where the Govt. has banned

attachment of the officers from one place to another. Secondly, such an order could not have been issued by the CEO, Zila Panchayat as it is not

within his jurisdiction and powers conferred upon him in respect of an officer of Rural Engineering Services.

3. The contention of the counsel for the petitioner even otherwise is that the order of posting also could not have been determined by the Chief

Executive Officer, Zila Panchayat so far as the petitioner is concerned, who

otherwise is a substantive officer of the Rural Engineering Services and it is only the State Government who could decide the place of posting of the petitioner.

4. This aspect is not controverted by the State counsel, though the counsel tries to justify the action by stating that the impugned order seems to be an order passed under administrative exigency.

5. Once when it is undisputed that the Chief Executive Officer, Zila Panchayat was incompetent to decide the posting of the petitioner, and secondly

when it is also not in dispute that the Government has literally put a ban on officers being attached from one place to another place, the impugned

order to that extent is not sustainable. Such orders could only be issued by the competent authorities under the State Government by way of issuance

of proper transfer orders.

6. Reserving the right of the respondents for issuing suitable orders, the impugned order so far as the petitioner is concerned, stands set-

aside/quashed, consequences to follow.