

**HIGH COURT OF CHHATTISGARH AT BILASPUR****Writ Petition (S) No. 250 of 2022**

Ashwani Kumar Mire S/o Shri Alath Ram Mire, Aged about 54 years, Working as Teacher (L.B.) Govt. Middle School, Jhanki, Block Navagarh, Distt. Bemetara, Chhattisgarh.

**---Petitioner**

**Versus**

1. State of Chhattisgarh through the Secretary, Education Department, Mantralaya, Mahanadi Bhawan, Atal Nagar, Nawa Raipur, Distt. Raipur, Chhattisgarh.
2. Director, Lok Shikshan Sanchanalaya, Indrawati Bhawan, Atal Nagar, Nawa Raipur, Distt. Raipur, Chhattisgarh.
3. Divisional Joint Director (Education), Durg Division, Durg, Chhattisgarh.
4. Collector, Bemetara, Distt. Bemetara, Chhattisgarh.
5. District Education Officer, Bemetara, Distt. Bemetara, Chhattisgarh.
6. Block Education Officer, Navagarh, Distt. Bemetara, Chhattisgarh.

**---Respondents**

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For Petitioner :-	Mr. C.Jayant K. Rao, Advocate
For State :-	Mr. Amrito Das, Addl. A.G. and Mr. Avinash Singh, P.L.

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Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

[Through Video Conferencing]

18/01/2022

1. The petitioner was earlier working as Teacher (L.B.) and he was placed under suspension by order dated 08/06/2020 under Rule 9 of Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966. Thereafter, he preferred WPS No. 2967/2020 questioning the order of suspension whereby he was allowed to make representation for revocation of suspension vide order dated 06/08/2020 passed by this Court. In pursuance thereof, petitioner moved a representation and ultimately by order dated 21/09/2021 (Annexure P/1) passed by respondent No. 3, his suspension has been revoked, but now he has been posted at Government Middle School, Kandabani, Block Pandariya, District Kabirdham and suspension allowance has been confined for the purpose of pension against which this writ petition has been preferred by him.

2. Mr. C. Jayant K. Rao, learned counsel for the petitioner, would submit that while revoking the order of petitioner's suspension, his place of posting could not have been changed and since no departmental action has been taken against him,



therefore, he is entitled to be posted at his earlier place of posting and further entitled for full backwages of the suspension period. He would further submit that petitioner may be allowed to make a representation so that he may be posted in District Bemetara where he was earlier working.

3. Mr. Amrito Das, learned Additional Advocate General, would invite the attention of this Court in the decision rendered by the Division Bench of this Court in the matter of L.P. Saket v. Chhattisgarh State Civil Supplies Corporation Limited<sup>1</sup> wherein it has already been held that it is not a thumb rule that an employee whose suspension has been revoked has a right to be posted and continued in the same place of posting on revocation of suspension, as he only has a lien on the post and not on the place of posting, therefore, the instant writ petition deserves to be dismissed, however, if the representation is made by the petitioner, it will be considered and decided strictly in accordance with law.

4. I have heard learned counsel for the parties, considered their rival submissions made hereinabove and went through the records with utmost circumspection.

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<sup>1</sup> WPS No. 7269/2017 decided on 15/11/2018



5. The short question for consideration in this writ petition would be, whether the Divisional Joint Director (Education) is justified in transferring the petitioner to another District after revoking his suspension ?

6. In order to answer this plea, it would be appropriate to notice the judgment rendered by this Court in the matter of L.P. Saket (supra) wherein the Division Bench formulated the following question for consideration in paragraph 1 :-

"1. Vide order date 27.03.2018, the learned Single Judge, while dealing with the present writ petition on the question whether an employee placed under suspension on charges of omission and commission for which a departmental proceeding was initiated and is still subsisting, has a right to be posted back to the same place of posting after revocation of suspension or he can be given another place of posting."

7. Thereafter, the aforesaid question has been answered by the Court in paragraphs 12 and 14 of the judgment, which states as under :-

"12. Keeping in mind what the Full Bench of the Madhya Pradesh High Court has had to say in the case of **Asif Mohd. Khan v. State of Madhya Pradesh and Ors.**<sup>2</sup> and even with regard to correctness or otherwise of the decision rendered in the case of **Kendriya Vidyalaya Sangathan & Others. V. Dr. R.K. Shastri & Another**<sup>3</sup>, we are constrained to hold that the order passed by a coordinate Bench of the Single Judge in the cases of **Khadanand Patanwar v. State of Chhattisgarh**

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2 2015 (4) MPLJ 406

3 2005 (4) MPHT 352



**& Others<sup>4</sup>** and **Khelendra Kumar Singh v. State of Chhattisgarh<sup>5</sup>** are not good laws. There is no right of an employee to claim a place of posting on revocation of suspension as a matter of right and the competent authority can very well transfer an employee to yet another place after revocation of suspension even otherwise keeping the exigencies of service into consideration as also that posting such a person on the same post and place where a departmental enquiry was still going on against him, may not be in the interest of the administration since there could be every possibility of such an employee to tamper with the evidence and not allow a free and fair enquiry to be held. We may also notice that during period of suspension, the Head Quarter of an employee is always fixed away from the place of posting which has an object and reason. The same will be defeated if it is held that the employee has a lien on place also.

14. The question of law for which the reference was made has been answered in the preceding paragraphs of this order. To sum, it cannot be a thumb rule that an employee whose suspension has been revoked has a right to be posted and continued in the same place of posting on revocation of suspension, as he only has a lien on the post and not on the place of posting."

8. Thus, it has clearly been held by the Division Bench of this Court that an employee whose suspension has been revoked has no legal right to be posted and continued in the same place of posting on revocation of suspension, as he only has a lien on the post and not on the place of posting. The competent authority has the jurisdiction to change the place of posting as per administrative exigency. In that view of the matter, petitioner's

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4 WPS No. 3146/2015

5 WPS No. 5039/2015



claim that he ought to have been posted at his earlier place of posting after revocation of suspension cannot be accepted and is hereby rejected. However, petitioner is at liberty to make representation before respondent No. 3 for redressal of his grievance/posting in District Bemetara within three weeks from today which will be considered and decided within further three weeks from the date of filing of the representation on its own merits in accordance with law.

9. With the aforesaid liberty reserved in favour of the petitioner, this writ petition stands disposed of. No cost(s).

**Sd/-**  
**(Sanjay K. Agrawal)**  
**Judge**

Harneet





**HIGH COURT OF CHHATTISGARH, BILASPUR**

**Writ Petition (S) No. 250 of 2022**

**Petitioner** Ashwani Kumar Mire

**Versus**

**Respondents** State of Chhattisgarh & Ors.

**(English)**

Government servant has no right to be posted at same place after revocation of his suspension and his place of posting can be changed by the competent authority.

**(Hindi)**

शासकीय सेवक को उसके निलंबन के प्रतिसंहरण के पश्चात् उसी स्थान पर पदस्थापना का अधिकार नहीं है तथा सक्षम प्राधिकारी द्वारा उसके पदस्थापना के स्थान में परिवर्तन किया जा सकता है।