

①

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 3922 /2014

Single Bench

Petitioner:

R. N. Meshram, S/o Shri Ramadhar Meshram, aged about 57 years, Sub Divisional Officer, Water Resources Department, (WRD), Sub Division Kanker, R/oQr. No. G-2, Civil Lines, Kanker, P.S. Kanker, District North Bastar Kanker (Chhattisgarh)

Versus

Respondents:

1. State of Chhattisgarh, through the Secretary, Water Resources Department (WRD), Mahanadi Bhavan, Mantralaya, Naya Raipur District Raipur (Chhattisgarh)
2. Engineer-in-Chief, Water Resources Department (WRD), Sihawa Bhavan, Civil Lines, Raipur (Chhattisgarh)
3. Executive Engineer, Water Resources Department (WRD) Divisio, Kanker District North Bastar Kanker (Chhattisgarh)
4. Shri V. K. Naikar, S/o not known to the petitioner, Assistant Engineer (Office Attach) Water Resources Department, Kanker, District North Bastar Kanker (Chhattisgarh)

WRIT PETITION UNDER ARTICLE 226/227 OF THE
CONSTITUTION OF INDIA

(98)
138

HIGH COURT OF CHHATTISGARH AT BILASPUR

(Hon. Mr. Justice Pritinker Diwaker)

Writ Petition (S) No. 3422 of 2014

PETITIONER

R.N. Meshram

VERSUS

RESPONDENTS

State of Chhattisgarh and others

Shri B.D. Guru, counsel for the petitioner.

Shri V.A. Goverdhan Panel Lawyer. for the
respondents No. 1 to 3/ State.

Shri N. Naha Roy, under the authority of Shri A.V.
Sridhar, counsel for respondent No.4.

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

ORDER
(10.02.2015)

Challenge in the present writ petition is to the order dated 15.07.2014 . (Annexure P-1) 'whereby the petitioner, who is working as Sub Divisional Officer, Water Resources Department, Sub Division-2, Kanker has been transferred as Assistant Engineer in the Office of the Executive Engineer, Water Resources Department, Kanker on administrative grounds.

2. The main ground raised by the petitioner is that respondent No.4 was under suspension and after his suspension was revoked he has directly been posted in place of the petitioner on

his own request, which is not permissible under the law. Further ground which has been raised by the petitioner is that respondent No.4 is facing departmental enquiry and till the enquiry is completed, important charge of Sub Divisional Officer could not have been given to him. According to the petitioner, the order impugned has been passed just to accommodate respondent No.4.

3. Opposing the arguments advanced by counsel for the petitioner, the State counsel submits that the petitioner has been transferred on administrative grounds and his transfer has nothing to do with the transfer of respondent No.4. He submits that as the suspension of respondent No.4 has been revoked he was required to be posted in some place and in the administrative exigency it was thought appropriate to shift the petitioner from Sub Division-2, Kanker and to post respondent No.4 in place of the petitioner.

4. Heard counsel for the parties and perused the documents on record.

5. Taking a consistent view with regard to the transfer of Government servants it has been held by the Apex Court in series of cases, some of them being in **Shilpi Bose (Mrs.) and Others Vs. State of Bihar and Others** reported in 1991 Supp. (2) SCC 659; **Mohd. Masood Ahmad Vs. State of U.P.** and

Others reported in 2007 (8) SCC 150; Union of India and Others Vs. S.L.Abbas reported in (1993)4 SCC 357; State of M.P. and Another Vs. S.S.Kourab and Others reported in 1995(3) SCC 270; Union of India & Others Vs. Debanath and Another reported in 2004 (4) SCC 245 and E.P.Royappa Vs. State of Tamil Nadu & Another reported in 1974 (4) SCC 3, that the transfer is an exigency of service and while transferring the incumbent the Government is not required to specify as to what was the exigency which propelled the authority to do so. The Apex Court went on to hold that a Government servant holding a transferable post has no vested right to get stuck to a particular place of his own choice. Of course, the transfer orders should not be resorted to mala fides or any grudge nurtured against a government servant and if ultimately it is established that the transfer of the incumbent from one place to the other is actuated by some extraneous consideration, the legal remedy is always available to him. Further stress has been laid in holding that generally the Courts should not go into the expediency of posting an officer at a particular place because if the day to day orders issued by the government or its sub-ordinate authorities are subjected to judicial interference, it would lead to a complete chaos in the administration which would not be conducive to the public interest. While dealing with the transfer matters, it has been reiterated by the Apex Court that the Courts or Tribunals are not the appellate forums to decide such matters and the focus



4

14/10/10

should always be on the smooth discharge of administrative functions. Even if the State Government has made policy (Annexure P/2) as to posting of its employees in scheduled areas, but in the administrative exigencies the employee can always be transferred.

6. Thus, considering the facts and circumstances of the case and the law expounded by the Apex Court in relation to transfer, this Court find it difficult to further entertain the present writ petition, the same is accordingly dismissed.

7. At this stage, counsel for the petitioner submits that stay is operating in favour of the petitioner since 30.07.2014 and the petitioner may be permitted to file representation before the Secretary and at least for a limited period till the representation of the petitioner is decided, the interim protection may be continued.

8. The request made by the counsel for the petitioner appears to be reasonable. Therefore, it is directed that till four weeks from today the petitioner shall be allowed to continue in his present place of posting and in the meanwhile if he files any such representation the same be decided by the competent authority in accordance with law. Respondent No.4 would also be at liberty to appraise the authorities about his stand.

Sd/-
Pritinker Diwaker
Judge

Shubh