

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 327 of 2015

1. S.N. Bhagat S/o Shri Lodro Ram Bhagat Aged About 52 Years Occupation Service, Presently Working As Principal, Govt. Boys Higher Secondary School, Dharamjaigarh, Civil And Revenue District Raigarh, C.G.

---- Petitioner

Versus

1. State Of Chhattisgarh, Through Secretary, Department Of Tribal Welfare Mantralaya, Mahanadi Bhawan, Raipur, C.G.
2. Director Public Instructions, Sanchanalaya, Raipur, District Raipur, C.G.
3. Collector District Raigarh, Chhattisgarh
4. Assistant Commissioner Department Of Tribal Welfare, District Raigarh, C.G.

---- Respondent

For Petitioner	Shri K.N. Nande, Advocate
For Respondent/State	Shri Shashank Thakur, Govt. Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

01/09/2015

Heard learned counsel for the parties.

1. Petitioner is assailing the order dated 5-3-2014 whereby he has been posted as Principal of Government Higher Secondary School, Sankra, Baramkela, District Raigarh.

2. It is stated that the petitioner is working as Principal, Government Boys Higher Secondary School, Dharamjaigarh and his request for posting at Dharamjaigarh was under consideration. The students of the school had also submitted representation, yet no decision was taken. It is also argued that the petitioner moved an application for his absorption in the Department of Tribal Development, however, this application was also under consideration.
3. Admittedly, the petitioner was transferred to Sankara, Baramkela on 5-3-2014, however, he has not joined at his transferred place. This Court had directed the Collector, Raigarh, to file affidavit as to why the petitioner has not yet been relieved from Dharamjaigarh to join at Baramkela.
4. Shri Thakur, learned Govt. Advocate would draw attention of the Court to the affidavit filed by the Collector indicating that the petitioner has been issued a communication for joining at Baramkela, however, the petitioner is not obeying the orders passed by the superior authorities.
5. The impugned order has been passed in March, 2014 i.e. more than one year back. The order does not violate any of the service conditions of the petitioner, nor the petitioner has right to be absorbed in any particular department.

6. Be that as it may, it is a trite law that transfer/posting is an incidence of service. The Court should not interfere with the transfer/posting order unless there is malice, infringement of statutory rules and regulations. The employees may be posted anywhere at the instance of the employer in public interest and administrative exigency. Further, it is for the Government to post another person if any vacancy arises on account of transfer/posting of an employee. (See: *E.P. Royappa v. State of Tamil Nadu and another*¹, *Shilpi Bose (Mrs.) and others v. State of Bihar & another*², *State of M.P. and another v. S.S. Kourv and others*³, *Mohd. Masood Ahmad v. State of U.P. & others*⁴, *Chief Commercial Manager, South Central Railway, Secunderabad & others v. G. Ratnam & others*⁵ and *Airports Authority of India v. Rajeev Ratan Pandey & others*⁶).
7. As a sequel, the writ petition, *sans* merit, is liable to be and is hereby dismissed. No order as to costs.

Sd/-

Judge

Prashant Kumar Mishra

Gowri

1 1974 (4) SCC 3
2 (1991) Supp 2 SCC 659
3 (1995) 3 SCC 270
4 (2007) 8 SCC 150
5 (2007) 8 SCC 212
6 (2009) 8 SCC 337