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HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 808 of 2015**

- Suresh Kumar Naik (Constable No. 893), S/o Shri Radhe Shyam Naik Aged About 39 years, Posted At Police Station: Tarlaguda, Bijapur District Bijapur, (C.G.) Permanent R/o Village Jampali, Post Tarladola, Tahsil Pusaur, Police Station: Pusaur, District Raigarh (C.G.)

---- **Petitioner****Versus**

1. State Of Chhattisgarh Through The Secretary, Ministry Of Home Department, Mantralaya, Mahanadi Bhawan New Raipur, Police Station: Rakhi District : Raipur (C.G.)
2. The Director General Of Police Chhattisgarh Police Headquarter, Raipur, District - Raipur (C.G.)
3. Additional Director General Of Police (Admn) Police Head Quarter, Chhattisgarh Raipur (C.G.)
4. Superintendent Of Police Bijapur, District Bijapur (C.G.)
5. Station House Officer Police Station Tarlaguda, Bijapur, District Bijapur (C.G.)

---- **Respondents**

For Petitioner : Shri Vinod Deshmukh, Advocate appears for Shri PK Patel, Advocate.
 For Respondents : Shri S. Majid Ali, Panel Lawyer.

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****22/07/2015**

1. The petitioner, who is working as Constable, has called in question the

order dated 16.10.2014 passed by the Director General of Police, Chhattisgarh canceling the order dated 15.1.2014 whereby the petitioner was transferred from Bijapur to Raigarh.

2. On 15.1.2014, the petitioner was transferred from Bijapur to Raigarh. He was not relieved to join at the transferred place. Against the said action, the petitioner preferred WPS No.2603/2014, which has been disposed of with a direction to the respondents that if the said transfer order is still in existence and no other order has been passed in respect of the petitioner, the Government is under obligation to comply with the same at once. However, the transfer order dated 15.1.2014 has been cancelled by the respondents by order dated 12.6.2014 and being aggrieved by the same, the petitioner preferred WPS No.4507/2014 which was disposed of with a direction to competent authority of the respondents to consider and decide the representation. It is this representation which has been rejected by the impugned order.
3. 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 employee 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).

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

4. It is true that the petitioner had earlier preferred WPS No.2603/2014, which has been disposed of with a direction to the respondents that if the said transfer order is still in existence and no other order has been passed in respect of the petitioner, the Government is under obligation to comply with the same at once. However, the transfer order dated 15.1.2014 has been cancelled by the respondents by order dated 12.6.2014, against which, the petitioner preferred WPS No.4507/2014 which was disposed of with a direction to competent authority of the respondents to consider and decide the representation as early as possible.
5. After considering the petitioner's representation, the Director General of Police has now passed the present impugned order canceling the transfer order on the ground that the transfer order was required to be approved from the Police Establishment Board, therefore, since the petitioner's earlier transfer was not approved by the said Board, the same was placed in the meeting of the Board on 15.10.2014 wherein the Board recommended for cancellation of the petitioner's transfer.
6. Considering the limited scope of interference in transfer matters and for the fact that the Director General of Police appears to have taken a conscious decision based on recommendation of the Police Establishment Board, no case for interference with the impugned order is made out. The writ petition is accordingly dismissed.

Sd/-
Judge
(Prashant Kumar Mishra)