

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 1256 of 2015**

- DINESH CHAUDHARI, S/O SHRI P.R. CHAUDHARI, AGED ABOUT 43 YEARS, POST: SUB INSPECTOR (M), POSTED AT 1ST BATTALION, CHHATTISGARH ARMED FORCE, BHILAI, DISTRICT DURG, CG

---- Petitioner

Versus

1. STATE OF CHHATTISGARH, THROUGH SECRETARY, DEPARTMENT OF HOME (POLICE), OFFICE SITUATED AT MAHANADI BHAWAN, NEW RAIPUR, DISTRICT RAIPUR, (CG)
2. DIRECTOR GENERAL OF POLICE (CG) OFFICE AT POLICE HEAD QUARTERS, MAHANADI BHAVAN, NEW RAIPUR, DISTRICT RAIPUR, CG
3. INSPECTOR GENERAL OF POLICE (CHHATTISGARH ARMED FORCE-2), OFFICE AT POLICE HEAD QUARTERS, CIVIL LINE, DISTRICT RAIPUR, CG
4. COMMANDANT, 1ST BATTALION, CHHATTISGARH ARMED FORCE, BHILAI, DISTRICT DURG, CG
5. SHRI PINAKI BHATTACHARYA, SUB INSPECTOR (M) POSTED AT 1ST BATTALION, CHHATTISGARH ARMED FORCE, BHILAI, DISTRICT DURG, CG, PRESENTLY ATTACHED TO OFFICE OF INSPECTOR GENERAL OF POLICE (C.A.F.-2), OFFICE AT POLICE HEAD QUARTERS, CIVIL LINE, DISTRICT RAIPUR, CG

---- Respondents

For Petitioner : Shri Pravin Dhurandhar, Advocate.
 For Respondent/State : Shri PK Bhaduri, Govt. Advocate.

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****10/04/2015**

1. The petitioner, who is working as Sub Inspector (M) with the respondent department, is challenging the order dated 2.3.2015 passed by the

respondent authorities whereby the petitioner has been transferred from 1st Battalion, CAF Bhilai to 7th Battalion, CAF, Kabirdham.

2. Learned counsel for the petitioner would submit that the impugned order has been passed to accommodate respondent No.5; after 6 months of passing of first transfer order, by the impugned order, the first transfer order has been amended by which respondent No.5 was transferred back from Kabirdham to Bhilai; once respondent No.5 has been transferred from Bhilai to Kabirdham, he cannot be transferred back from Kabirdham to Bhilai by amending the first transfer order; therefore, the impugned order is illegal and deserves to be quashed.

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).

4. Therefore, considering the limited scope of interference under Article 226 of

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

the Constitution of India and for the fact that the petitioner is raising issues concerning violation of policy/guidelines as well as his/her own personal difficulties, the writ petition is disposed of reserving liberty to the petitioner to file a fresh representation before the competent authority within a period of 15 days from today and in turn, the competent authority shall consider and decide the same as early as possible, preferably within a period of 4 weeks, in accordance with law and on its own merits. However, till the representation of the petitioner is decided or for a period of 4 weeks, whichever is earlier, the effect and operation of the impugned order in respect of the petitioner shall remain stayed.

5. It is made clear that while considering the representation, the concerned authority shall hear the petitioner as well as respondent No.5.

J U D G E

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