

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 1270 of 2015**

- Bhogchandra Tamrakar S/o Shri Lokman Prasad Tamrakar Aged About 59 years Presently Posted As Upper Division Teacher (Arts) At Government Middle School Balak Khaparganj, District Bilaspur; R/O Jabadapara, Bilaspur PS Sarkanda, District Bilaspur (Chhattisgarh)

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of School Education, Mantralaya, Mahanadi Bhawan, Naya Raipur, Raipur (Chhattisgarh)
2. The Collector, Bilaspur, District Bilaspur (Chhattisgarh)
3. The Chief Executive Officer, Jila Panchayat Bilaspur, District Bilaspur (Chhattisgarh)
4. The District Education Officer, Bilaspur, District Bilaspur (Chhattisgarh)

---- Respondents

For Petitioner	:	Shri Mateen Siddiqui, Advocate
For Respondent/State	:	Shri Shashank Thakur, GA for the State

Hon'ble Shri Justice Prashant Kumar Mishra
Order On Board

10/04/2015

Heard learned counsel for the parties.

1. This writ petition under Article 226 of the Constitution of India is preferred to challenge the order dated 10-3-2015, whereby the Chief Executive Officer, Zila Panchayat Bilaspur has rejected petitioner's representation, which was preferred by him to challenge his transfer from Government Middle School, Ba. Khaparganj to Government Middle School Penderva North.

2. Petitioner's earlier writ petition bearing WP (S) No.4564/2014 was disposed of by this Court on 03-9-2014. In the said order while refusing to interfere with the order on merits, this Court permitted the petitioner to move a representation.
3. It has been argued that there is violation of transfer policy/rationalization policy and the said issue has not been addressed while dismissing the representation, therefore, the impugned order is not sustainable.
4. Admittedly, the transfer order is not assailed on the ground of violation of any statutory provisions or *mala fide*.
5. 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).

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

6. In view of the above settled legal position, no case for interference with the impugned order is made out. Accordingly, the writ petition is dismissed.

JUDGE

Ashu