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HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 1988 of 2015

- Udal Singh Sahu S/o Shri Kunju Ram Sahu Aged About 40 years Head Constable, Post, Thana & District Dantewada (CG)

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Home Department, Mahanadi Bhawan, New Raipur (CG)
2. Director General Of Police, Chhattisgarh, Police Head Quarter, Raipur
3. The Superintendent Of Police, Dantewada, District Dantewada (CG)

---- Respondents

For Petitioner : Shri Somkant Verma, Advocate.
For Respondents : Shri S. Majid Ali, Panel Lawyer.

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

29/07/2015

1. The petitioner, who is working as Head Constable, has called in question the order dated 16.10.2014 passed by the Director General of Police, Chhattisgarh whereby the representation preferred by the petitioner seeking transfer from Dantewada to Baloda Bazar-Bhatapara has been rejected.

2. On 15.1.2014, the petitioner was transferred from Dantewada to Balodabazar-Bhatapara. He was not relieved to join at the transferred place, however, later on, by order dated 24.6.2014, the earlier transfer

order was cancelled. Challenging the order dated 24.6.2014, the petitioner preferred WPS No.3446/2014, which has been disposed of with a direction to the respondents to decide the petitioner's representation seeking transfer to the place where he was earlier transferred on 15.1.2014. 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]).

4. It is true that the petitioner had earlier preferred a writ petition viz. WPS No.3446/2014 challenging the order dated 24.6.2014 whereby the earlier order dated 15.1.2014 by which he was transferred from Dantewada to Balodabazar-Bhatapara has been cancelled, however, this Court had also directed the respondents to consider the petitioner's representation in accordance with law, without expressing any opinion on the merits of the case.

5. After considering the petitioner's representation, the Director General of

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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

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)

Barve