

HIGH COURT OF CHHATTISGARH, BILASPUR

WP(S) No. 2168 of 2015

- R. S. Rathore S/o Late Shri H.P. Rathore, aged about 56 years R/o Quarter No. HIG-06, Housing Board Colony, Jamani Pali, Korba, Police Station Darri, District Korba (C.G.) Permanent R/o Village and post Madhali, Police Station Hardi Bazar, District Korba (C.G.)

---- Petitioner

Versus

- State Of Chhattisgarh, Through : Secretary, Panchayat & Rural Development Department, Mahanadi Bhawan, Mantralaya, Capital Complex, Naya Raipur, District Raipur (C.G.)
- Collector, Korba, District Korba (C.G.)
- Chief Executive Officer, Zila Panchayat Korba, Civil and Revenue District Korba (C.G.)
- Executive Engineer, Rural Engineering Services Division, Korba, Civil and Revenue District Korba (CG.)

---- Respondents

For Petitioner
For Respondent/State

Mr. Manoj Paranjpe, Advocate
Mr. Shashank Thakur, Government
Advocate

Hon'ble Shri Justice Prashant Kumar Mishra
Order On Board

24/06/2015

Heard finally with the consent of learned counsel for the parties.

2. The petitioner has assailed the legality and validity of the impugned order dated 25.05.2015 – Annexure P/1, whereby, the petitioner has been transferred from the post of Sub Divisional Officer, RES, Pondiuproda, District Korba to the post of Assistant Engineer, RES, Sub Division, Tamnar, District Raigarh.

3. Mr. Paranjpe, learned counsel for the petitioner would submit that on 21.08.2014, the petitioner was attached in the office of Jila Panchayat, Korba,

where-against the petitioner preferred W.P.(S) No.38/2015. The said writ petition was withdrawn with liberty to prefer a representation. When the petitioner preferred a representation before the Collector, who had passed the order of attachment, the Collector issued a communication to the petitioner on 23.03.2015, causing stigma on the petitioner and mentioning that the State Government has been informed about requirement of his posting elsewhere. It is argued that the impugned order emanates from the Collector's letter dated 23.03.2015, which is stigmatic in nature, therefore, by necessary corollary, the same is also stigmatic and as such, this Court should interfere. He refers to the judgment of the Supreme Court in the matter of ***Somesh Tiwari v. Union of India and others, AIR 2009 SC 1399.***

4. Mr. Thakur, learned Government Advocate for the State, would submit that the impugned order is a posting order stating nothing about the petitioner's conduct or behaviour or work, therefore, it is not stigmatic. The petitioner is holding Class-II Gazetted Post in the department of RES and is posted at the present place of posting for about 2 ½ years. The ordinary tenure of an employee at a particular place, as per transfer policy, is one year where-after an employee can be transferred to another place of posting.

5. In its communication dated 23.03.2015, the Collector has referred to the petitioner's act of negligence, behaviour and the apprehension of law and order situation because of his style of functioning. Neither the Collector has initiated any punitive action against the petitioner nor the State Government has done so. The impugned order is pure and simple order of posting without even referring to the communication sent by the Collector.

6. It appears that considering the administrative exigency, the State Government thought it better to transfer the petitioner rather than initiating any action against him. Even otherwise, the Collector being the head of the

State Government's administrative set up at the district level, has all the authority to recommend to the State Government for transferring any officer, if according to him, the said officer's behaviour or functioning is contrary to public interest.

7. 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).

8. For the foregoing reasons, this Court is of the considered opinion that the impugned order is not stigmatic but it is a simple transfer order, which does not call for any interference in this petition filed under Article 226 of the Constitution of India.

9. Accordingly, the writ petition is dismissed.

JUDGE

Shyna

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