

Single Bench

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**IN THE HON'BLE HIGH COURT OF CHHATTISGARH AT
BILASPUR (C.G.)**

Writ Petition (S) No. 3383 of 2014

PETITIONER

R.No. 3383/14
Presented by Shri Smt. J. Saini
dated 17.7.14

Lalit Kumar Dubey son of late
Shri R.L. Dubey, aged about 55
years, resident of Forest Colony,
Kondagaon, Police Station and
District-Kondagaon (C.G.)

VERSUS

RESPONDENTS

Admitted

Sd/-
A.R.(J)

Amended as per Hon'ble
court order dtd
24/11/14
(Suryash Dhar)
26/11/14

1. State of Chhattisgarh
Through the Secretary, Forest
Department, Mantralaya New
Raipur, P.S.-Rakhi, District-
Raipur (C.G.)
2. The Divisional Forest Officer,
Dantewada Forest Division,
District-Dantewada (C.G.)
R.R. Kashyap
3. B.R. Kashyap, Ranger, Barsur
Forest Region, Dantewada Forest
Division, District-Dantewada
(C.G.)

**WRIT PETITION UNDER ARTICLE 226 OF THE
CONSTITUTION OF INDIA**

HIGH COURT OF CHHATTISGARH AT BILASPUR

(Hon. Mr. Justice Pritinker Diwaker)

Writ Petition (S) No. 3383 of 2014

PETITIONER

Lalit Kumar Dubey

VERSUS

RESPONDENTS

State of Chhattisgarh and others

Shri Prateek Sharma counsel for the petitioner.

Shri Prasoon Bhaduri GA for respondents No.1 and 2.

Shri Kasif Shakil counsel for respondent No.3.

Writ Petition (S) No. 5358 of 2014

PETITIONER

Ratan Ram Kashyap

VERSUS

RESPONDENTS

State of Chhattisgarh and others

Shri Kasif Shakil counsel for the petitioner.

Shri Prasoon Bhaduri GA for respondents No. 1 to 4.

Shri Prateek Sharma counsel for respondent No.5.

WRIT PETITIONS UNDER ARTICLE 226 OF THE
CONSTITUTION OF INDIA

ORDER
(14.01.2015)

As the present petitions are interlinked, they are disposed of by this common order.

2. W.P.(S) No. 3383/2014: Challenge in this petition is to the order dated 14.7.2014 (Annexure P-1) whereby the petitioner

who is working as Ranger has been transferred from Nelasnar Range, Dantewada Division to Kutru Range, Indravati Tiger Reserve, Bijapur on administrative exigency. By the same order respondent No.3 namely R.R. Kashyap (petitioner in WPS No. 5358/2014) has been transferred from Barsur Range, Dantewada Division to Nelasnar Range, Dantewada Division i.e. in place of the petitioner. The order impugned has been challenged on the following grounds:

- (i) that the petitioner has been transferred in an arbitrary manner and with *mala fide* intention;
- (ii) that in his present place of posting the petitioner had joined about six months back by virtue of order dated 21.2.2014 and therefore he should not have been transferred within such a short span;
- (iii) that for last seven years the petitioner had been working in the Naxalite affected area and by the impugned order he has again been sent to a more heavily infested Naxalite area;
- (iv) that the impugned transfer order has been passed in violation of the transfer policy.

3. Replying to the arguments of the counsel for the petitioner it has been submitted on behalf of the respondents that transfer is an incidence of service, that both the petitioner and the respondent No.3 have been transferred on administrative ground

and as such the petition is liable to be dismissed. It has been argued that considering the dearth of manpower the officials are being posted in the Naxalite affected area for a long time as except this, there is no other option available to the State. It is argued that even respondent No.3 namely R.R. Kashyap has been transferred from one Naxalite affected area to the other Naxalite affected area and in these circumstances the impugned transfer order can not be interfered with. According to the State counsel, from 5.7.2014 to 25.8.2014 the petitioner was unauthorizedly absent from duty and in the meantime respondent No.3 gave his joining in his place on 18.7.2014, charge was given to him on 23.7.2014 and then the petitioner was also relieved on 11.8.2014. According to him, suppressing all these facts the stay order dated 20.8.2014 was obtained by the petitioner as a result of which respondent No.3 is unnecessarily being put to trouble.

4. **W.P. (S) No. 5358/2014:** This petition has been filed by R.R. Kashyap assailing the order dated 25.9.2014 whereby respondent No.5 namely Lalit Kumar Dubey (petitioner in WPS No. 3383/2014) has been asked to take over the charge of Nelasnar Forest Range where the petitioner herein was posted. By the same order the petitioner herein has also been asked to hand over the charge of Forest Range Nelasnar to respondent No.5. In this petition it is argued by the counsel for the petitioner that after passing the transfer order dated 14.7.2014 respondent

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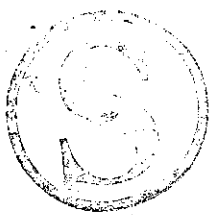
No.5 Lalit Kumar Dubey who was un-authorizedly absent from duty from 5.7.2014 to 25.8.2014 was relieved and the petitioner herein had joined in his place at Nelasnar Forest Range on 18.7.2014, charge thereof was given to him on 23.7.2014 and thus again asking respondent No.5 to take the charge of the said Forest Range is bad in the eye of law. It has been further asserted by the counsel for the petitioner that even order Annexure P-1 has been passed by an incompetent authority as it is the Divisional Forest Officer who was competent to pass any such order but in this case the same has been passed by the Sub Divisional Officer.

5. Heard counsel for the parties and perused the documents on record.

6. So far as WPS 3383/2014 filed by Lalit Kumar Dubey is concerned, the same has been filed mainly on the ground that the petitioner has already worked in the Naxalite affected area for number of years and now he has again been shifted to that area which is bad in the eye of law.

7. True it is that in such a situation where the petitioner is standing, the employee faces a lot of difficulties but the fact remains that the petitioner is posted in the Forest Department and in the State of Chhattisgarh most of the Forest belts are infested with Naxalites menace and keeping in view such a

scenario if an official is shifted from one Naxalite affected area to the other like the petitioner and respondent No.3, this Court finds it difficult to make interference with such orders. Further, there is no substance in the argument of the petitioner's counsel that within a period of six months the petitioner could not have been shifted from one place to the other because dealing with the transfer matters it has been categorically held by the Apex Court that transfer is an incidence of service and it does not require the consent of the employee. It is further held by the Apex Court that a public servant has no vested right to seek transfer to a location of his choice and he/she can be transferred on administrative exigencies and in public interest. The settled legal position further envisages that it is not obligatory on the part of the employer to even comply with the principles of natural justice before making an order of transfer and the government is fully empowered to transfer a government servant from one place to another. Yet another important aspect of the case is that the transfer order was issued on 14.7.2014 whereas the interim order was granted on 20.8.2014 and in between the petitioner remained unauthorizedly absent from duty from 5.7.2014 to 25.8.2014 and in the meantime charge was given to respondent No.3 and then the petitioner was also relieved but all these facts were suppressed by the petitioner while obtaining the stay order. Considering all these aspects of the case, this Court feels that the order



impugned cannot be interfered with and the petition being without any substance is liable to be dismissed. It is dismissed as such.

8. However, if the petitioner has any grievance, he is at liberty to make a representation to the higher authorities which may be considered and decided in accordance with law.

9. As WPS 3383/2014 has been dismissed, the other being WPS 5358/2014 filed by Ratan Ram Kashyap automatically becomes infructuous and nothing further remains therein for adjudication. Accordingly, this petition is disposed of.

Sd/-
Pritinker Diwaker
Judge



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