

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (S) No.4089 of 2015

Y.R. Lahare, aged 57 years, S/o Late Shri B.R. Lahare,
Working as Block Education Officer, At Block Bilaigarh, District
Baloda Bazar-Bhatapara (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through the Secretary, Department of Agriculture, Mantralay, Mahanadi Bhawan, Naya Raipur.
2. Shri J.R. Dahariya, Block Education Officer, at Pithoura, District Mahasamund (C.G.)

---- Respondents

For Petitioner: Mr. Rajesh Kumar Kesharwani, Advocate.

For Respondent No.1/State:-

Mr. Y.S. Thakur, Deputy Advocate General.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

04/12/2015

1. The petitioner is working as Block Education Officer. By the impugned order, he has been transferred from Bilaigarh to Block Basna, Distt. Mahasamund as Block Education Officer which he seeks to challenge by way of this writ petition stating inter alia that during the ban period, he has been transferred without approval of the In-charge Minister of the District as required under clause 3.2 of the transfer policy issued by the State Government for the year 2015-16.
2. Mr. Rajesh Kumar Kesharwani, learned counsel for the

petitioner, would submit that the transfer order issued in violation of the transfer policy, is per se illegal and bad in law.

3. Mr. Y.S. Thakur, learned Deputy Advocate General appearing on behalf of the State/respondent No.1, on advance copy, would bring to the notice of the Court the fact that the impugned transfer order has been passed with the approval of the Chief Minister in coordination as recorded in the impugned order and clause 3.2 of the transfer policy requires that during the ban period, the State cadre officer can be transferred after obtaining order from the Chief Minister in coordination and as such, the transfer order passed after obtaining approval of the Chief Minister in coordination on the basis of administrative exigency, is not required to be interfered with.
4. I have heard learned counsel for the parties, and perused the order impugned and copy of the transfer policy.
5. The fact remains that the order impugned clearly records that it has been approved by the Chief Minister in coordination and which is in tune with clause 3.2 of the transfer policy issued for the year 2015-16 requiring approval of the Chief Minister in coordination. Thus, the impugned transfer order is passed in accordance with law as per the transfer policy and there is no violation of transfer policy.
6. It is trite law that transfer is an incidence of service and it cannot be interfered with 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 Naidu 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).

7. In view of the above, this Court is not inclined to interfere with the impugned transfer order. The writ petition being devoid of any merit deserves to be and is hereby dismissed *in limine*.
No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

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