

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 862 of 2015

1. Manoj Kumar Tiwari, S/o Late Arjun Tiwai Aged About 37 years R/o Village Aghanpur, Post Jagdalpur, Tahsil & Police Station Jagdalpur, Tahsil & Police Station Jagdalpur, Civil & Revenue District Jagdalpur (C.G.)

---- Petitioner

Versus

1. State Of Chhattisgarh, Through Its Secretary, Agriculture Department Mantralaya, Mahanadi Bhawan, New Raipur (C.G.)
2. Under Secretary State Government Of Chhattisgarh, Agriculture Department Raipur (C.G.)
3. The Deputy Director, Agriculture Department, District Bastar Jagdalpur (C.G.)
4. The Assistant Soil Examination Officer, Dharampura, Jagdalpur, District Bastar (C.G.)
5. Rahul Dewangan, working In The Office Of Senior Agriculture Development Officer, Geedam District Dantewada (C.G.)

---- Respondent

For Petitioners

Shri P. Tiwari, Advocate

For Respondent/State

Shri Shashank Thakur, Govt. Adv.

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

06/04/2015

Heard learned counsel for the parties.

1. Petitioner has assailed the legality and validity of the order dated 14-7-2014 by which he has been transferred from the office of the Deputy Director (Agriculture), Jagdalpur to the office of Senior Agriculture Development Officer, Geedam, Dantewada on administrative ground.
2. Learned counsel for the petitioner would submit that the post of AG III is not vacant at Geedam, Dantewada, therefore, the impugned order is illegal and arbitrary. He would further submit that the transfer order has been amended vide Annexure – P/12 issued by the State Government on 20-2-2015 and now the petitioner is sought to be relieved after 9 months of passing of the transfer order.
3. On perusal of the impugned order and the order Annexure – P/12 would reveal that the amendment in the original transfer order is only to the extent of petitioner's present place of posting without effecting the transferred place of posting, there is no substantive change in the impugned order. It appears, because of wrong description of petitioner's present place of posting he could not be relieved, therefore, it became necessary to amend the order otherwise the petitioner would have been relieved earlier.
4. Be that as it may, 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).

5. In view of the above, the writ petition, being devoid of merit, is liable to be and is hereby dismissed.

J u d g e

Gowri

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