

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 2190 of 2015**

- Shatrughan Khunthey S/o Late Shri K.R. Khunthey Aged About 35 years
Head Constable, Presently Posted At Police Station Chhindgarh, Post &
Thana- Chhindgarh, Distt. Sukma (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 Sukma, District Sukma (CG)

---- Respondents

For Petitioner : Shri Somkant Verma, Advocate.

For Respondents : Shri Arvind Dubey, Panel Lawyer.

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****21/07/2015**

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 canceling the order dated 1.2.2014 whereby the petitioner was transferred from Sukma to Bilaspur.
2. Learned counsel for the petitioner would submit that by the same order of transfer another Head Constable Mr. Vibhav Tiwari was transferred from Jagdalpur to Korba and he was relieved to enable him to join at

Korba. He would also submit that one Constable Sagar Kumar was also transferred and his representation was also rejected, yet he was subsequently transferred from Gariyaband to Durg.

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.2432/2014 challenging the order passed by the Director General of Police staying the transfer order and seeking his relieving, 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 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

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

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