

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 2444 of 2015

- Lilendra Kumar Shakya S/o Late Parthreshwar Prasad, Aged About 54 years, At Present Working as a Assistant Grade II, Tehsil Office Pharasgaon, District Kondagaon, (Chhattisgarh)

---- Petitioner

Versus

- State Of Chhattisgarh Through The Secretary, Revenue & Disaster Management, Mahanadi Bhavan, New Mantralaya, Mahanadi Bhawan, Raipur, District Raipur, (Chhattisgarh)
- Commissioner, Bastar Division, Bastar at Jagdalpur (Chhattisgarh)
- The Collector, Kondagaon at Kondagaon, District Kondagaon, (Chhattisgarh)

---- Respondents

For Petitioner
For Respondent/State

Mr. Vishnu Koshta, Advocate
Mr. P.K.Bhaduri, Government Advocate

S.B.:Hon'ble Mr. Justice Prashant Kumar Mishra

Order On Board

10/7/2015

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

(2) The petitioner has assailed the order 08.04.2015 passed by the State Government rejecting his representation against the transfer order dated 15.07.2014, by which, the petitioner, who is working as AG-II in the Tehsil Office, Farasgaon District Kondagaon has been transferred to District Bijapur on administrative grounds.

(3) Learned counsel for the petitioner would submit that the

petitioner had earlier filed W.P. (S) No.4541 of 2014, in which, this Court passed an order directing the State Level Committee to consider the petitioner's representation and he was allowed to continue at the present place of posting till the representation is decided. However, by the impugned order, the representation has been decided by a non-speaking order. He would further submit that the petitioner was earlier posted at Narainpur, where-from, he was transferred to District Kondagaon in the year 1994 and thereafter, he is working at Kondagaon. Therefore, the petitioner should not have been transferred to a more interior and naxal affected area. He would submit that the petitioner having remained in naxal/scheduled area for a period of more than 5 years, the State Government should have obtained option from the petitioner before passing the impugned transfer order.

(4) Learned counsel for the State would submit that the representation of the petitioner has been considered and rejected, therefore, no case for interference is made out.

(5) 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.*

¹ 1974 (4) SCC 3

² (1991) Supp 2 SCC 659

*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).

(6) The transfer and posting of an employee being an administrative concern of the State Government/employer, this Court is not entitled to sit over the order as an Appellate Court and embark on judicial review as if the authorities have exercised any quasi judicial powers.

(7) True it is that the order rejecting the petitioner's representation does not assign any reason but it is to be seen that the said exercise was emanating from an administrative order relating to posting/transfer of an employee for which, the State Government is not obliged to assign reasons. Even otherwise, the petitioner is posted at the present place of posting for last about 20 years.

(8) For the foregoing reasons, no case for interference is made out. Accordingly, the writ petition is dismissed.

Sd/-

JUDGE

(PRASHANT KUMAR MISHRA)

Shyna

3 (1995) 3 SCC 270

4 (2007) 8 SCC 150

5 (2007) 8 SCC 212

6 (2009) 8 SCC 337