

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 1750 of 2015

- Lachendra Kumar Diwan, S/o Shri Bhagwati Singh Diwan, aged about 29 years, Constable, Police Line Gariyaband, Post Thana & District Gariyaband (C.G.)

---- Petitioner

Versus

- State of Chhattisgarh, Through : The Secretary, Home Department, Mahanadi Bhawan, New Raipur (C.G.)
- Director General of Police, Chhattisgarh Police Head Quarter, Raipur
- The Superintendent of Police, Gariyaband, District Gariyaband, (C.G.)

---- Respondent s

For Petitioner	Mr. Sushil Kumar Sahu, Advocate
For Respondent/State	Mr. P.K. Bhaduri, Government Advocate

Hon'ble Shri Justice Prashant Kumar Mishra
Order On Board

03/08/2015

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

(2) Challenge in this petition is to the order dated 24.06.2014, by which, the transfer order dated 17.01.2014 passed in favour of the petitioner, has been cancelled on the ground that the transfer order was required to be approved from the Police Establishment Board. However, since the petitioner's earlier transfer order was not approved by the said Board, the same was placed in the meeting of the Board, wherein, the Board recommended for cancellation of the petitioner's transfer.

(3) According to learned counsel for the petitioner, pursuant to the transfer order dated 17.01.2014, the petitioner has not been relieved to

join at the transferred place of posting.

(4) Be that as it may, 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. 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) Considering the limited scope for interference in transfer of the employees and for the fact that the DGP appears to have taken a conscious decision based on the recommendation of the Board, no case for interference is made out in the impugned order.

(6) Accordingly, the writ petition is dismissed.

Sd/-

Judge

(Prashant Kumar Mishra)

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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