

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 2388 of 2015**

- Subardan Toppo S/o Late Manshidh Toppo Age 41 Presently Posted As Chief Manger Dena Bank, Mohan Nagar Durg Branch, P.S.- Mohan Nagar, Dist. Durg. (C.G.)

---- Petitioner**Versus**

1. Union Of India Through Secretary Ministry Of Finance, North Block New Delhi- 110001.
2. Dena Bank, Through Chairman And Manging Director, Head Office, Dena Corporate Center, C-10, G-Block, Bandra Kurla Complex Bendra East, Mumbai- 400051, Maharastra.
3. General Manger (H.R.M) Dena Bank Human Resource Management Department, Head Office, Dena Corporate Center, C-10, G-Block, Bandra Kurla Complex, Bandra East Mumbai- 400051, Maharastra.
4. General Manager, Dena Bank Zonal Office Durg Chhattisgarh.

---- Respondents

For Petitioner	:	Shri Chandresh Shrivastava, Advocate
For Respondent No.1	:	Shri Raj Kumar Gupta, Advocate
For Respondents No.2 to4:	:	Shri Vinod Deshmukh, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****06/07/2015**

1. Learned counsel for the petitioner would submit that the petitioner, who is working as Chief Manager with the respondent Bank, has been transferred from Durg to Rajkot, without there being any administrative exigency. He would further submit that the petitioner has been subjected to frequent transfer, inasmuch as, during last six years, the petitioner has been subjected to transfer at least on six occasions and the respondent Bank

never considered his request for transferring him to a place where his wife is posted. He would also submit that as per the Central Government's policy dated 30-9-2009, which is also applicable to public sector undertakings, as far as possible, husband and wife should be posted at one place.

2. 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. 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).
3. In view of the law laid down by the Supreme Court, this Court deems it appropriate to dispose of the writ petition with a direction that the petitioner may prefer a representation before the competent authority of the respondent Bank raising his grievances relating to violation of the policy/guideline and his personal difficulties in complying 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

transfer order. The representation may be filed within a period of 15 days from today, if such representation is filed, the competent authority shall consider and decide the same, by a speaking order, in accordance with law, within a further period of one month.

4. It is made clear that this Court has not expressed any opinion on the merits of the case and the respondent authorities shall decide the matter, on its own merits, strictly in accordance with law, without treating any observation made in this order, as opinion on the merits of the case.

Sd/-

JUDGE

Prashant Kumar Mishra

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