

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 1015 of 2015

1. Vivek Hardeo S/o Sohan Lal Lodhi Aged About 51 years Fisheries Inspector, O/o Assistant Director, Fisheries, Mahasamund

---- Petitioner

Versus

1. State Of Chhattisgarh Through Its Secretary, Fisheries Department, Mahanadi Bhavan, Naya Raipur
2. Director Directorate Of Fisheries, Indravati Bhavan, Raipur
3. Assistant Director Fisheries, District Mahasamund

---- Respondent

For Petitioner	Shri Raja Sharma, Advocate
For Respondent/State	Shri Shashank Thakur, GA & Sangarh Pandey, Dy. GA

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

16/07/2015

Heard learned counsel for the parties.

1. This petition is preferred to challenge the order dated 16-3-2015 whereby the State Government has cancelled the previous order dated 15-7-2014 transferring the petitioner, who is working as Fisheries Inspector from the office of the Assistant Director (Fisheries), Janjgir-Champa to the office of the Assistant Director (Fisheries), Mahasamund.
2. Shri Sharma, learned counsel for the petitioner would submit that pursuant to the order dated 15-7-2014 the petitioner was relieved from Janjgir-Champa on 22-7-2014 and thereafter, joined at

Mahasamund on 23-7-2014, therefore, once the order has been executed nothing remained for cancellation.

3. Learned counsel for the State would submit that transfer being an exigency of service, the State Government is competent to pass an order canceling the previous transfer order if it is executed. He would further submit that the order of cancellation occasioned because there were complaints against the petitioner.
4. Be that as it may, the Division Bench of this Court in **Tarun Kanungo v. State of Chhattisgarh & Others**¹, held thus :

“3. The question for cancellation of an order not in existence does not arise. The only option available to the authorities was to issue any fresh orders. We may appropriately refer to two Bench decisions in **2000 (2) PLJR 332 (Smt. Jyotsna Kumari v. The State of Bihar)** and **2000 (3) PLJR 139 (Mahmood Azam Siddique v. The State of Bihar)** observing as follows :

'12. Now it is a settled law that once an order of transfer issued and acted upon, it is spent its force. Thereafter, no substantive part remains to be stayed or rescinded and any order to that effect is redundant.'

5. In view of the above, the impugned order dated 16-3-2015 is quashed. However, liberty is reserved in favour of the respondents to pass fresh order depending upon the administrative exigency, in accordance with the transfer policy.
6. As a sequel, the writ petition is allowed to the extent indicated above. No order as to costs.

Sd/-

Judge

Gowri

Prashant Kumar Mishra

1 WA No.248 of 2015 (decided on 15-5-2015)