

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 3266 of 2016

Rajaram Sahu S/o Late B.R. Sahu, Aged About 50 Years Posted As Jail
Warder, Central Jail Raipur, Civil And Revenue District Raipur
Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Home
(Jail) New Mantralaaya, Mahanadi Bhawan, New Raipur Chhattisgarh
2. The Director General, (Jail And Sudharatmak Sewain), Police Head
Quarter Raipur Civil And Revenue District Raipur Chhattisgarh

---- Respondents

For Petitioner	: Mr. M.K. Bhaduri, Advocate.
For Respondent-State	: Mr. Dheeraj Wankhede, Government Advocate

S.B.:Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

03/08/2016

Heard on admission.

1. Transfer order dated 20.07.2016 is challenge on the ground that it is malafide exercise of power. During the course of argument, learned counsel for the petitioner also submitted that there are many warders posted in various jails for several years but they have not been transferred and the petitioner has been singled out because earlier he had filed a petition and order was passed in his favour by this Court. He submits that if at all there was an exigency, any other warder posted in the Central Jail Raipur ought to be shifted rather than petitioner.
2. The only basis for attributing malafide exercise of power is that earlier

when the petitioner was sought to be transferred from Central jail Raipur to Central Jail Jagdalpur, the transfer order was set aside.

3. After going through the order passed on 5th of March, 2015 in earlier writ petition filed by the petitioner, it is found that taking into consideration the requirement of Rules 201 and 208 of C.G. Prisons Rules, 1968, this Court found that the transfer order could not be passed. The said order was passed on 5th of March, 2015. It is not a case where immediately after the order of this Court, the petitioner was transferred in the mid session. The transfer of the petitioner has been made now during transfer session. It is not only the petitioner but many other officers have been transferred from one place to the other place. Therefore the allegation of malafide is not made out.
4. On other grounds that many other warders posted at different places have completed number of years of service but not shifted and that in place of petitioner, any other warder posted in Raipur jail could be shifted, this Court is of the considered opinion of these are matters of administrative consideration and not justiciable as to which employee is to be posted at which place, is a matter of administrative decision. Unless the order is tainted by malafide suffers from jurisdictional illegality or results in severe hardship so as to warrant indulgence by the writ Court in exercise of extraordinary jurisdiction, ordinarily a transfer order would not be justiciable. Therefore, the petition has no merit and is dismissed.

Sd/-
(Manindra Mohan Shrivastava)
Judge