

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****WPS No. 3422 of 2016**

- Budh Sai Bhagat S/o Shri Chuluram Bhagat, Aged About 51 Years Presently Posted As Forest Range Officer, Rajpur, R/o Tahsil & P. S. Rajpur, District Balrampur Ramanujganj (Chhattisgarh)

---- Petitioner**Versus**

1. State of Chhattisgarh Through The Secretary, Forest Department, Mahanadi Mantralaya, Naya Raipur, Post Office & Police Station Rakhi, District Raipur (Chhattisgarh)
2. Divisional Forest Officer, Forest Division, Balrampur, District Balrampur, Ramanujganj (Chhattisgarh)

---- Respondents

For Petitioner : Mr. Jitendra Gupta, Advocate
 For State : Mr. S.P. Kale, Dy. Adv. General on advance copy

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****05/08/2016**

Heard.

1. By this petition, the petitioner has challenged the correctness and validity of his transfer vide order dated 30.07.2016, by which he has been transferred from Forest Division Balrampur to Forest Division Surguja.
2. The challenge to the transfer order is based on following grounds :
 - (i) That, by two transfer orders even dated 30.07.2016 (Annexures P/1 & P/2) as many as 99 Officers under the cadre of Forest Range Officers have been transferred, which exceeds the percentage of transfer as provided in Clause 2.12 of the Policy dated 11.06.2016;

(ii) That, as per Clause 1 (X), the transfer order is required to be complied with at least by 30.07.2016 which means that transfer order ought to have been passed well in advance so that the transferred Officer may be in a position to comply with the transfer order on or before 30.07.2016;

(iii) That, the petitioner has been posted in the present place of posting from 14.07.2014 and he has not completed five years, therefore, unless he has served for five years he could not be transferred;

(iv) That, the petitioner's children, who are studying in Class – 7th and Class – 2nd, have already been admitted in various schools, if at this stage, the petitioner is subjected to be transferred, it will be a cause of serious hardship.

3. All the grounds which have been raised before this Court challenging the correctness and validity of transfer order only relates to administrative guidelines. It needs no authority for well settled legal proposition that transfer is an incident of service. The transfer guidelines are formulated by the State Government for administrative purposes. Violation of guidelines, as such, does not effect the terms and conditions of the service of an employee. There may be few cases where for certain reasons like frequent transfer, case of husband and wife, serious medical illness or likewise reason, because of transfer the Government servant may suffer serious hardship.

4. Ordinarily, the transfer order merely results in change of place of posting. It neither affects pay / salary nor any other benefit of the Government servant to which he is legally entitled to.
5. In plethora of decisions of the Supreme Court, it has been repeatedly held that guidelines have no statutory force and therefore, violation of the guidelines by itself, without anything more, would not be a ground for interference by a Writ Court. Unless an order of transfer is vitiated by illegality, malafides or violation of the statutory provisions or in any manner adversely affects the terms and conditions of the service of an employee, it may not be susceptible to challenge. Quite often this Court directs the transferring authority to consider representation in few cases, where in the given facts and circumstances of a particular case, the Court finds that the employee is suffering from some hardship, which may require immediate attention. Barring those cases, mere violation of the guidelines would not be a ground to challenge.
6. A Government servant has remedy to prefer representation to the authorities. In fact, the Transfer Policy dated 11.06.2016 contains specific clause that a Government servant may prefer representation against the transfer order which shall be considered by the competent authority. In all cases, where the challenge to transfer order is not based on illegality, lack of competence or malafide or violation of any statutory provisions of law, for all other kinds of alleged violation of Policy, which is administrative in nature, the Government servant is required to first prefer a representation.

In case, representation is not considered, he may approach the Court.

7. All the grounds which have been urged before this Court are mere allegation of violation of administrative guidelines. It is also found that a ground for personal hardship is also being raised in the petition that as the educational session has already begun, transfer should not have been made. If this fact be accepted, perhaps all the transfer orders effected will have to be interfered with.
8. In the absence of there being any ground of illegality, malafide or competence and looking to the nature of hardship alleged, I am not inclined to admit the petition.
9. No representation has been placed on record, therefore, the petitioner may prefer representation to the Government as per Clause – 6 of the Transfer Policy dated 11.06.2016, which shall be considered within four weeks from the date of receipt of copy of this order.
10. The petition is accordingly disposed off.

Sd/-
(Manindra Mohan Shrivastava)
Judge