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HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 4564 of 2016

Santosh Kumar Jagat S/o Late Shri Kripal Singh Jagat, Aged About 34 Years R/o Gram Dhukupathra, Tehsil Pali, P.S. Pali, District Korba, (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Department Of Revenue, Mahanadi Bhawan, Mantralaya, New Raipur, (Chhattisgarh)

2. Chhattisgarh Board Of Revenue, Through Its President, Bilaspur, District Bilaspur, (Chhattisgarh)

3. Under Secretary, Chhattisgarh Revenue Board, Bilaspur, (Chhattisgarh)

---- Respondents

And

WPS No. 4569 Of 2016

Laxman Prasad Sidar S/o Late Ramlal Sidar, Aged About 51 Years Post Daftari, R/o E.W.S. Housing Board Colony, Devrikhurd, District Bilaspur, (Chhattisgarh)

---- Petitioner

Vs

1. State Of Chhattisgarh Through Secretary, Department Of Revenue, Mahanadi Bhawan, Mantralaya, New Raipur, (Chhattisgarh)

2. Chhattisgarh Board Of Revenue, Through Its President, Bilaspur, District Bilaspur, (Chhattisgarh)

3. Under Secretary, Chhattisgarh Revenue Board, Bilaspur, (Chhattisgarh)

---- Respondents

And

WPS No. 4566 Of 2016

Sheshmani Sondhia S/o Late Vishesha Prasad, Aged About 54 Years Assistant Grade-3, Chhattigarh Revenue Board Bilaspur, R/o 27 Kholi, Bilaspur, District Bilaspur, (Chhattisgarh)

---- Petitioner

Vs

1. State Of Chhattisgarh Through Secretary, Department Of Revenue, Mahanadi Bhawan, Mantralaya, New Raipur, (Chhattisgarh)

2. Chhattisgarh Board Of Revenue, Through Its President, Bilaspur, District Bilaspur, (Chhattisgarh)

3. Under Secretary, Chhattisgarh Revenue Board, Bilaspur, (Chhattisgarh)

---- Respondents

And

WPS No. 4588 Of 2016

Maniram Netam S/o Late Shri Rohit Lal Netam, Aged About 28 Years R/o. Gram Uslapur, Tehsil Takhatpur, P. S. Chakarbhata, District Bilaspur (Chhattisgarh)

---- Petitioner

Vs

1. State Of Chhattisgarh Through Secretary, Department Of Revenue, Mahanadi Bhawan, Mantralaya, New Raipur (Chhattisgarh)

2. C. G. Board Of Revenue, Through Its President, Bilaspur, District Bilaspur (Chhattisgarh)

3. Under Secretary, C. G. Revenue Board Bilaspur (Chhattisgarh)

---- Respondents

Shri Kishore Bhaduri, counsel for the petitioner/s.
Shri R.K.Gupta, Dy.A.G. for the State.
Shri Gary Mukhopadhyaya, counsel for respondents 2 and 3.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

18/11/2016

All these writ petitions are disposed off by this common order as these petitions have been filed by the petitioners, who are working as ministerial staff in the Board of Revenue and seek to challenge order dated 08/08/2016, by which, they have been transferred from Bilaspur to Raipur.

2. The ground of challenge in all the above petitions are that the Secretary, Board of Revenue, without any authority and without approval of the President of the Board of Revenue, has issued the impugned transfer order which is without jurisdiction and authority of law and therefore, void. The other submission of learned counsel for the petitioner is that the transfers have been made without there being any administrative exigency because number of cases, which are pending at Raipur Circuit of the Board of Revenue are lesser than that pending at Bilaspur. Therefore, in these circumstances, the administrative exigency warrants that the petitioners ought to have been continued at Bilaspur itself.

3. Learned counsel for the petitioners submits that these petitions are filed by the petitioners along with certain note sheets to demonstrate that the Secretary of the Board of Revenue had actually not taken approval from the President of the Board of Revenue. Therefore, contention is that while filing return, respondents have prepared false documents and note-sheets to somehow support and justify the action.

4. On the other hand, learned counsel for respondents 2 and 3 / Board of Revenue, referring to the reply filed on affidavit and documents attached with the reply, submits that in the present case, the President of the Board of Revenue had, infact, granted due approval of transfer submitted before him by the Secretary and it is thereafter, transfer order of the petitioners was passed.

5. On the first ground that the transfer is without jurisdiction as the Secretary of the Board of Revenue had not taken approval of the President, the reply filed on affidavit shows that the approval was taken. As between the President, Board of Revenue and the Secretary thereof, once a stand has been taken before the Court that approval was sought and obtained, in order to establish otherwise, heavy burden lies on the petitioners. Infact, the petitioners have failed to

discharge this part.

The note sheets clearly shows that approval was prepared by the Secretary and President, Board of Revenue had approved the same.

6. Second ground that the note sheet is afterthought, appears to be unfounded. The only basis for making allegations is that in response to the information sought under RTI, certain note sheets were supplied to the petitioner along with which, note sheets which is now being filed by the respondents before the Court, was not supplied to the petitioners.

It appears that the petitioners have made allegations of preparation of false note sheets only on certain surmise. The petitioners have not placed on record the application, on the basis of which, information under RTI was sought.

7. Therefore, in view of categoric stand supported by affidavit and note sheets placed on record by the respondents, I do not find that the ground of transfer order having been passed by the Secretary without approval of the President of the Board of Revenue, has legs to stand.

8. Which employee should be posted to which place, is a matter for consideration of the competent authority and not for the Writ Court. It is too well settled that transfer, can be challenged only on the ground of illegality or malafide or in a case where order appears to be patently illegal so as to warrant interference by the Writ Court. The petitioners are working as ministerial staff in the Board of Revenue. Only by comparison of number of cases, the decision taken by the respondent authorities cannot be interfered by this Court to hold otherwise. As far as figures of pending cases are concerned, there is difference in the pleadings and in the reply filed by the respondents. The Writ Court, while exercising jurisdiction in the matter of transfer, interferes only in limited

circumstances and it cannot sit as a supervisory authority to find out which employee has to be transferred.

9. In view of above, I do not find any ground to interfere with the transfer order. The petitions are therefore dismissed.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Deepti