

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (S) No.472 of 2016

Dr. D.P. Kurre, S/o Shri G.M. Kurre, aged about 54 years,
R/o Chintalanka, Police Station Dantewada, Dantewada,
District South Bastar Dantewada (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through the Principal Secretary,
Higher Education Department, Mahanadi Bhawan,
Mantralaya, New Raipur, District Raipur (C.G.)
2. The Collector, District South Bastar Dantewada (C.G.)
3. Government Danteshwari Post Graduate College,
Dantewada, Through the In-charge Principal, Dantewada,
District South Bastar Dantewada (C.G.)
4. Shikha Sarkar, In-charge Principal, Government
Danteshwari Post Graduate College, Dantewada, District
South Bastar Dantewada (C.G.)

---- Respondents

For Petitioner:	Mr. Prateek Sharma, Advocate.
For Respondents/State:	Mr. Dheeraj Kumar Wankhede, GA.

Hon'ble Shri Justice Sanjay K. Agrawal

CAV Order

06/04/2016

1. By order dated 8-1-2015, respondent No.4 was appointed
as In-charge Principal, Government Danteshwari Post
Graduate College, Dantewada. The petitioner filed W.P.
(S)No.150/2015 before this Court which was disposed of
with certain directions and to decide the representation of

the petitioner against which the petitioner preferred W.P. (S)No.3536/2015 which was dismissed on 8-10-2015 and against which the petitioner preferred W.A.No.541/2015 which was also dismissed by a Division Bench of this Court by order dated 18-11-2015 expressing a hope that the respondent State would appoint a regular Principal in the College in question within a period of three months.

2. The State Government by its order dated 5-2-2016 after obtaining approval from the coordination by order dated 5-2-2016, transferred the services of the petitioner on administrative ground from Dantewada to Government Indrawati College, Bhopalpatnam. Copy of the order dated 5-2-2016 was received by the College at Dantewada on 8-2-2016 and on the same day, the petitioner was relieved for Bhopalpatnam, the transferred place.
3. This writ petition has been filed by the petitioner only challenging the relieving order dated 8-2-2016 stating inter alia that though the transfer order dated 5-2-2016 has not been served upon him, yet he has been relieved which is illegal and bad in law. The petitioner has filed this writ petition on 10-2-2016. Order dated 8-2-2016 clearly mentions the order dated 5-2-2016 as the order of transfer and even before this Court, the transfer order dated 5-2-

2016 was filed on 5-3-2016 as Annexure R-5, but the petitioner did not care to challenge the order of transfer in this writ petition, though the argument was heard on the question of admission on 30-3-2016.

4. Learned counsel for the petitioner submits that the transfer order dated 5-2-2016 was never served to the petitioner. The relieving order filed as Annexure P-1 clearly mentions that pursuant to the transfer order dated 5-2-2016, the petitioner is being relieved.
5. The object of service of administrative order including the order of transfer to the concerned Government servant is that he/she may comply the said order. In the instant case, it is the claim of the petitioner that he has not been served with the order of transfer and he has been relieved and, therefore, it is arbitrary. But the fact remains that on the strength of the existent order of transfer received to the Government College by the State Government, the petitioner has been relieved by the respondent No.3 complying the valid order of the State Government, but the petitioner has challenged it as arbitrary stating that it has not been served upon him, however, even after having been served upon him before this Court on 16-3-2016, he did not challenge the same. The order of transfer cannot

be equated with the charge-sheet service of which is necessary, as after the charge-sheet is served, reply is to be filed by the delinquent servant and thereafter, departmental enquiry proceeds. Thus, non-service of the order of transfer, if any, to the petitioner, which is his claim, has caused no prejudice to him and the order of relieving cannot be termed as arbitrary, as the petitioner even after service of the order of transfer before this Court, did not choose to challenge the same and as such, the relieving order cannot be held to be arbitrary.

6. The transfer order clearly states that during the ban period, the order of transfer has been passed and approval has been sought in coordination and that since the post is vacant at Bhopalpatnam, the petitioner's services have been transferred to the said College and he has been transferred to the said College as in scheduled area, no post can be left vacant for an unreasonably long time in that area, and the petitioner has been transferred only on administrative exigency.
7. 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 employee 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).

8. Thus, the petitioner has been relieved by respondent No.3 on the basis of valid order of transfer in existence passed by respondent No.1 State Government on administrative exigency after due approval from co-ordination in which I do not find any jurisdictional error in the impugned order. The writ petition deserves to be and is accordingly, dismissed. No order as to costs.

Sd/-
(Sanjay K. Agrawal)
Judge

Soma

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