

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 553 of 2016**

Rama Shankar Tripathi, S/o Late Shri Chotelal Tripathi, aged about 50 years, Occupation- Senior Clerk, Central Stores, S.E.C.L. Korba, Resident of S.E.C.L., S.B.C. Colony, Quarter No. M/50, P.S. Manikpur, Tahsil and District Korba (Chhattisgarh)

---- Appellant**versus**

1. South Eastern Coalfields Limited, through Chairman Cum Managing Director, S.E.C.L. Seepat Road Bilaspur (C.G.)
2. General Manager, (Personal/Labour Main Power) Head of the Department, Central Stores, S.E.C.L. Seepat Road, Bilaspur (C.G.)
3. Deputy General Manager, (Material Manager)/Central Stores, S.E.C.L. Korba, (Chhattisgarh)
4. Senior Officer (Personal/Administration) Central Workshop/Central Stores, Korba, S.E.C.L. (Mini Ratn Company), Korba, (Chhattisgarh)
5. Director Personal, S.E.C.L. Head Quarters, Seepat Road, Bilaspur (C.G.)

---- Respondents

For Appellant	:	Shri Avinash K. Mishra, Advocate
For Respondents	:	Shri H.B. Agrawal, Senior Advocate with Shri Pankaj Agrawal, Advocate

Coram: **Hon'ble The Chief Justice**
 Hon'ble Shri Sanjay Agrawal, J.

Judgment on Board**05/12/2016**

1. Heard I.A. No. 1 of 2016 for condonation of delay of 12 days in filing the appeal.
2. For the reasons stated in the application, the application is allowed and delay in filing the appeal is condoned.

3. This appeal is directed against the judgment dated 23.9.2016 passed by the learned Single Judge dismissing Writ Petition (S) No. 2630 of 2016.
4. The briefly stated facts of the case are that the Petitioner was working as a Senior Clerk with the South Eastern Coalfields Limited (hereinafter referred to as 'the S.E.C.L.'). He was placed under suspension on 15.1.2016 and was attached with Central Store, Korba. On 20.1.2016, he was transferred from Korba to Vishrampur. The Petitioner challenged this transfer order by filing Writ Petition (S) No. 389 of 2016 and in this petition, the learned Single Judge was pleased to stay the order of transfer. It appears that the Respondents also filed an application for vacation of the stay of the transfer order, but the same was ordered to be listed in due course. Thereafter, the Respondents on 5.3.2016 passed an order revoking the suspension order of the Petitioner and restored the services. The suspension order of the Petitioner was revoked on 27.4.2016. Thereafter, on 20.6.2016, the S.E.C.L. transferred the Petitioner to Raigarh area and the Petitioner filed Writ Petition (S) No. 2630 of 2016. The main ground of challenge was that during stay order passed in the earlier writ petition, the Petitioner could not be transferred. The second ground was that first transfer order which had been stayed by the Court had not been withdrawn and despite that second transfer order was passed.
5. We are not impressed with second submission because earlier

transfer order clearly states that the transfer was valid only till suspension was revoked. Once the suspension is revoked, the transfer order automatically comes to an end. However, we are in agreement with the first submission of learned counsel for the appellant that the manner in which the S.E.C.L. has passed the second order is not proper at all. An order had been passed by this Court staying the earlier transfer order. True it is that the transfer order was only applicable till the period of the suspension, but once the S.E.C.L. had approached this Court for vacation of the stay order and that prayer has not been accepted, the S.E.C.L. could not take the law in its own hand and virtually overrule the orders of this Court. Once there is a stay order, a party is expected to obey the same. We would have interfered in the matter and we would have set aside the second order of transfer, but we are not doing the same for two reasons. Firstly, the Petitioner since 2003 has been posted in Korba and he has no vested right to remain posted in Korba. Secondly, the first transfer order had a stipulation that it was only valid till the period of suspension. The Respondents should have approached the Court for vacation of the stay order or could have stated that the writ petition has become infructuous because the earlier transfer order had come to an end, but they could not circumvent the orders of this Court. Therefore, while we are dismissing the writ appeal we are expressing our grave unhappiness against the manner in which the S.E.C.L. has tried to over-reach the orders passed by this Court. This is not the first occasion where this Court has found that the officers of the S.E.C.L. are indulging in such activities. It is made clear that in future

if any officer of the S.E.C.L is found over-reaching the orders of this Court, then strict action shall be taken against the such officer.

6. Accordingly, the writ appeal is dismissed.

Sd/-
(Deepak Gupta)
CHIEF JUSTICE

Sd/-
(Sanjay Agrawal)
JUDGE