

HIGH COURT OF CHHATTISGARH, BILASPUR

WA No. 479 of 2016

1. Devendra Kumar Sahu S/o Late Pusau Ram Sahu, Aged About 49 Years Posted As Patwari At P.H. No. 42, Utai, R.I. Circle Anda, Tahsil And District Durg, (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through: The Secretary, Revenue Department, Mantralaya, Mahanadi Bhawan, New Raipur, District Raipur, (Chhattisgarh)
2. Deputy Secretary, State Of Chhattisgarh, Revenue Department, Mantralaya, Mahanadi Bhawan, New Raipur, District Raipur, (Chhattisgarh)
3. Collector, Durg, (Chhattisgarh)
4. Pradeep Kumar Singh, Posted As Patwari At P.H. No.26, Tahsil Patan, District Durg (Chhattisgarh)

---- Respondent

For Appellant Shri K.K. Dewangan, Advocate
For Respondent/State Shri A.S. Kachhawaha, Addl. Adv. General

Hon'ble Shri Justice Prashant Kumar Mishra
Hon'ble Shri Justice Chandra Bhushan Bajpai

Order On Board By
Prashant Kumar Mishra, J.

06/10/2016

1. By order dated 21-7-2016 the appellant, who is a Patwari posted at PH No.42, Tahsil & District Durg, for a period of

7 years, was shown to be transferred to PH No.26 Tahsil Patan, District Durg, on 'mutual basis'. This order was assailed in WPS No.3231 of 2016, which was disposed of on 28-7-2016 to enquire the matter as to whether the appellant had requested for mutual transfer.

2. Pursuant to the said order, the respondents examined the matter and, thereafter, an order was passed on 30-7-2016. In the said order, the respondent authorities put an endorsement that instead of '*mutual transfer*' his transfer be read to have been made on '*administrative ground*', which was under challenge in subsequent petition i.e. WPS No.4630 of 2016 and the same has been dismissed by the learned Single Judge by the impugned order dated 15-9-2016.
3. The learned Single Judge has refused to entertain the petition mainly on the ground that the appellant having completed his normal tenure of posting at the present place, no grievance can be raised by the appellant against the posting of the respondent No.4 in his place on the allegation of *mala fide* exercise of power.

4. Having heard learned counsel appearing for the parties, we are not persuaded to take any different view of the matter. Had it been a case that the appellant has been shifted elsewhere even before completion of normal tenure of posting, the plea of *mala fide* exercise of power to accommodate the respondent No.4 may be available to the appellant, however, the appellant having put in about 7 years of posting at the present place, there is no *mala fide* or illegality in transferring him to some other Patwari Halka. If the appellant is required to be transferred on completion of normal tenure of posting, someone else is required to be posted in his place, therefore, it cannot be said that whosoever is posted in his place of posting is being accommodated.
5. *Ex-consequenti*, the writ appeal, *sans substratum*, is liable to be and is hereby dismissed.

Sd/-

Judge
Prashant Kumar Mishra

Sd/-

Judge
Chandra Bhushan Bajpai

Gowri