

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 3544 of 2017

1. Kaushal Yadav S/o Late Ramesh Kumar Yadav Aged About 38 Years
R/o Mohammad Basir Khan Ward Mungeli, District Mungeli,
Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of
Revenue And Disaster Management, Mahanadi Bhavan, Mantralaya,
Naya Raipur, District- Raipur, Chhattisgarh
2. The Collector, Bilaspur, District- Bilaspur, Chhattisgarh

---- Respondent

For Petitioner

Shri Hemant Kesharwani, Advocate

For Respondent/State

Shri Rajendra Tripathi, Panel Lawyer

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

30/10/2017

- 1) The petitioner would assail the order Annexure – P/1 dated 27-7-2017 whereby the executed transfer order has been cancelled.
- 2) Initially by order dated 5-4-2017 the petitioner was transferred from Bilaspur to Halka 18, Kotgar, Tahsil Pendra, however, the said order was modified by posting the petitioner as Patwari of PH No.31 Lingiyadih on 19-7-2017. Pursuant to the said order, the petitioner joined at Lingiyadih on 19-7-2017 itself vide document available at page 17 of the petition, however, after execution of the order, by the order impugned petitioner's transfer order dated 19-7-2017 has been cancelled and has again been posted at PH 18 Thasil Pendra.

3) This Court, in the identical matters i.e. *Brajendra Singh v. State of Chhattisgarh & Others*¹, *Dr. Toshan Lal Todar v. State of Chhattisgarh & Others*² and *Khubchand Verma v. State of Chhattisgarh & Others*³ observed that once the transfer order is executed, the same cannot be cancelled. It was further observed that the employer is always at liberty to pass an order of transfer and posting the employee keeping in view the administrative exigency and public interest.

4) The Division Bench of this Court in **Tarun Kanungo v. State of Chhattisgarh & Others**⁴, held thus :

“3. The question for cancellation of an order not in existence does not arise. The only option available to the authorities was to issue any fresh orders. We may appropriately refer to two Bench decisions in **2000 (2) PLJR 332 (Smt. Jyotsna Kumari v. The State of Bihar)** and **2000 (3) PLJR 139 (Mahmood Azam Siddique v. The State of Bihar)** observing as follows :

'12. Now it is a settled law that once an order of transfer issued and acted upon, it is spent its force. Thereafter, no substantive part remains to be stayed or rescinded and any order to that effect is redundant.'

5) In view of the above, the impugned order is quashed. However, liberty is reserved in favour of the respondents to pass fresh order depending upon the administrative exigency, in accordance with the transfer policy.

6) As a sequel, the writ petition is allowed to the extent indicated above.

Sd/-

Judge

Prashant Kumar Mishra

Gowri

1 WP (S) No.5012/2009, decided on 9.3.2010

2 WP (S) No.855/2012, decided on 27.2.2012

3 WP (S) No.1054/2012, decided on 2.3.2012

4 WA No.248 of 2015 (decided on 15.5.2015)