

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 3673 of 2016**

- R. P. Singh S/o Late Shri Govind Singh, Aged About 56 Years, Posted As Sub Engineer, Public Health Engineering, Sub Division, Surajpur, District Surajpur (Chhattisgarh)

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Public Health Engineering Department, Mahanadi Bhawan, New Raipur, P. S. Rakhi, District Raipur (Chhattisgarh)
2. The Engineer-in-Chief, Public Health Engineering Department Indravati Bhawan, New Raipur, District Raipur (Chhattisgarh)_
3. The Superintending Engineer, Public Health Engineering Department, Ambikapur Circle, Ambikapur, District Surguja (Chhattisgarh)
4. The Executive Engineer, Engineer, Public Health Engineering Department, Surajpur, District Surajpur (Chhattisgarh)
5. Omkar Singh, Sub-Engineer, Public Health Engineering, Pratappur, District Surajpur (Chhattisgarh)
6. Vikas Prashant Singh, Posted As Sub Engineer (Civil), Public Works Engineering, Division Baikunthpur, District Korea (Chhattisgarh)

---- Respondent

For Petitioner	Mr. Rahul Mishra, Advocate
For Respondent/State	Mr. Satish Gupta, Government Advocate
For Respondent No.5	Mr. Sunil Otvani, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****19/4/2017**

1. Heard.

2. The petitioner is a Sub-Engineer in the Department of Public Health Engineering at Surajpur Sub-Division, where he is posted since 17.7.2012. On 02.09.2015, the petitioner was posted within the circle from Surajpur to Baikunthpur under an order passed by the concerned Superintending Engineer. Feeling aggrieved by the said posting, the petitioner preferred WP(S) No.3641 of 2015, which was dismissed by this Court on 08.10.2015, against which, the petitioner preferred WA No.549 of 2015. The aforesaid writ appeal was disposed of on 18.1.2016 directing the Superintending Engineer to decide the petitioner's representation, pursuant to which, the Superintending Engineer decided the representation and cancelled the order by which, the petitioner was posted from Surajpur to Baikunthpur and respondent No.5 was given the current charge of the office of Assistant Engineer of PHE Sub Division, Surajpur.
3. The present impugned order has been passed by the State Government on 29.7.2016 transferring the petitioner in the same capacity from Surajpur to Jashpur.
4. Assailing the order, Mr. Rahul Mishra, learned counsel for the petitioner, would submit that the previous orders dated 02.09.2015 and 03.09.2015 are clear indicative of the malafide intention of the respondents, because, the orders concerning the petitioner and respondent No.5 respectively were passed on the instructions of Hon'ble Minister of the Department. The intended design to pass those orders, was to hand over the

current charge of the office of Assistant Engineer to respondent No.5. He would further submit that when this Court interfered and directed the Superintending Engineer to decide the representation, both the orders were cancelled but soon thereafter, the present impugned order has been passed which is illegal and arbitrary. It is also argued that the present impugned order has been passed because the petitioner preferred a contempt petition against the Superintending Engineer and Executive Engineer.

5. Per contra, Mr. Satish Gupta, learned Govt. Advocate and Mr. Sunil Otwani, learned counsel for respondent No.5, would submit that the impugned order has been passed purely on administrative exigency and there is no malafide on the part of any of the respondents, who were concerned with the impugned order.
6. Having heard learned counsel for the parties, the writ petition deserves to be dismissed simply for the reason that the petitioner is continuing at the present place of posting for almost 5 years. Even if there was a direction by Hon'ble Minister of the concerned Department, that cannot be treated as malafide exercise of power because the concerned Minister is fully entitled to assess the obtaining administrative exigency in the Department on receiving feed back from the concerned Superintending Engineer and thereafter, to direct shifting of one officer from the place of posting to another.
7. Had it been a case where the petitioner is subjected to frequent

transfers at the instance of Hon'ble Minister of the Department or the order adversely affects any of his service condition, it may have been a case of malice in fact or malice in law apart from being statutorily impermissible. However, there being no such factual foundation except the endorsement made in the previous order, this Court does not deem the present as a fit case to interfere with the impugned transfer order, in view of the law laid down by the Supreme Court in the matter of **Mohd. Masood Ahmad Vs. State of U.P. and others, (2007) 8 SCC150.**

8. The writ petition is accordingly dismissed.

Sd/-

Judge

(Prashant Kumar Mishra)

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