

HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION (S) NO. 1415 OF 2017

K.R. Lahri, S/o Late Shri C.R. Lahri, aged about 57 years, presently working as Assistant Food Officer, District Bemetara (C.G.)

... Petitioner

Versus

State of Chhattisgarh, through the Secretary/Under Secretary, Department of Food, Civil Supplies & Consumer Protection, Mahanadi Bhawan, Mantralaya, New Raipur, District Raipur (C.G.)

... Respondent

For Petitioner	:	Mr. Pawan Shrivastava, Advocate.
For Respondent	:	Mr. Adhiraj Surana, Dy. Govt. Advocate, on advance copy.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

23/03/2017

1. Challenge in the present writ petition is to the order dated 7.3.2017 (Annexure P-1) whereby the services of the Petitioner has been transferred as Assistant Food Officer from Bemetara to District Surguja.
2. The first ground of challenge is that the order of transfer has been passed in order to accommodate one Arvind Kumar Dubey who was initially transferred to Surguja vide order dated 30.7.2016, but vide impugned order now his transfer order has been cancelled and in his place the Petitioner is being sent to Surguja. This, according to the Petitioner, is nothing but an act of favouritism committed by the Respondent in accommodating Arvind Kumar Dubey at Dhamtari and victimising the Petitioner by sending him from Bemetara to Surguja.
3. The second ground is that the Respondent has taken a lenient view in the case of Arvind Kumar Dubey, inasmuch as for last 8 months in spite of the fact that the said Arvind Kumar Dubey having not joined at Surguja, no disciplinary action has been initiated against him and now his order of transfer has been cancelled and he has been retained at Dhamtari itself.

4. Counsel for the Petitioner further submits that the impugned order all the more requires interference, on the ground that the person who was initially sent in place of Arvind Kumar Dubey at Dhamtari has already joined at his place of posting at Dhamtari and now by virtue of the cancellation of transfer order of Arvind Kumar Dubey, he has been rendered surplus and is still working at Dhamtari and yet the Petitioner is being sent to Surguja. It was further contended by the Counsel for the Petitioner that the Petitioner had made a representation to the Respondent and there is also a favourable recommendation in favour of the Petitioner by the Collector of District Bemetara, for retaining the Petitioner at his present place of posting. He also contended that the Petitioner is not keeping good health, inasmuch as he is a heart patient.

5. Counsel for the Petitioner next submits that till now the Petitioner has already put in about 27 years of services of which about 12 years of time he has been posted in the tribal area and now he has been again transferred to a tribal area, which is contrary to guidelines of the State Government itself.

6. So far as the law in respect of transfer is concerned, it is no longer *res integra* and is by now well settled legal position by a series of decisions of Hon'ble Supreme Court. It has been categorically held by the Supreme Court that transfer while in service is an incident of service and that the Petitioner cannot claim transfer at a particular place of posting.

7. Except for the allegation of the order of transfer being passed in order to accommodate Arvind Kumar Dubey, there has been no allegation of *malafide* levelled against the Respondent. Unless the order of transfer is contrary to law or has been issued by a person incompetent or is in contravention to the service conditions, the writ Court in exercise of writ jurisdiction is not supposed to interfere with the order of transfer.

8. The law in respect of the transfer policy also is quite clear that guidelines have to be adhered to only as far as possible and that does not mean if the Respondent on administrative exigency deviates from the transfer policy, the same would become illegal or vitiated.

9. The grievance of the Petitioner whatever he is being raised can only be ventilated by moving appropriate representation to the authorities concerned for which the Petitioner shall be free to do the same. It is expected that if the Petitioner makes any representation, the same shall be decided expeditiously.

10. The present writ petition stands accordingly dismissed. No order as to costs.

Sd/-
(P. Sam Koshy)
JUDGE