

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 1480 of 2017**

- Pawan Ranjan Kumar S/o Late Hargovind Prasad, Aged About 45 Years, CISF Unit, Seepat, Bilaspur, District Bilaspur, Chhattisgarh

---- Petitioner**Versus**

1. Union Of India Through Secretary, Ministry Of Home Affairs Department, Shastri Bhavan, New Delhi
2. Director General, Central Industrial Security Force, Block No. 13, C.G.O Complex, Lodhi Raod, New Delhi
3. Dy. Inspector General (CISF), Central Zone, 3rd Residence Battalion Complex, Utai, District Durg, Chhattisgarh
4. Dy. Commandant, CISF Unit, NTPC, Seepat, Bilaspur, District-Bilaspur, Chhattisgarh

---- Respondent

For Petitioner
For Respondent /UOI

Mrs. Fouzia Mirza, Advocate
Mr. R.K. Kesharwani, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****27/3/2017**

1. The petitioner is a SI/Steno in the Central Industrial Security Force (CISF) and is presently posted at NTPC Seepat. By the impugned order, he has been transferred from NTPC Seepat to IOCL, Paradip (Orissa).
2. It is argued that under the extant Guidelines governing the posting of a member of CISF, the first 7 years tenure should be

in Units out of Home Zone and the next 12 years should be in Units in Home Zone and the third 06 years tenure should be in Out of Home Zone and 4th tenure (remaining service) is to continue in out of Home Zone. This tenure will be considered for Home Zone subject to vacancies. Personnel will have to tender 6 years Outside Home Zone in 3rd tenure before this consideration starts and would be subject to the stipulation that number of Home Zone personnel does not exceed 50% above and on merit.

3. It is argued that the petitioner's earlier posting was not in consonance with the above guidelines and moreover, the petitioner has joined NTPC Seepat only in the month of July 2016 and thus, he has not yet rendered even one year service in NTPC, Seepat, therefore, the impugned transfer order amounts to frequent transfer as per clause 12 of the Guidelines being otherwise in contravention of the posting period in the Home Zone or Outside Home Zone, as the case may be.
4. Learned counsel for the petitioner would submit that the petitioner has submitted a representation before the respondents, which has been rejected vide Annexure P/6 by a non-speaking order. He would submit that the petitioner is willing to submit representation before the Director General, who is the final authority for deciding transfer/posting as per clause 10(A) of the Guidelines.
5. Learned counsel for the respondent/UOI would refer to the law down by the Supreme Court in the matter of **Major General J.K.**

Bansal Vs. Union of India and others (2005) 7 SCC 227, to argue that in matters concerning transfer of members of Armed Forces, a writ Court should ordinarily not interfere unless there is violation of statutory provision or proved malafide, which is not available in the present case, therefore, the writ petition deserves to be dismissed.

6. Considering the entire facts situation of the case and for the fact that the decision on representation appears to have been taken by a non-speaking order, ends of justice would be served if the petitioner is permitted to make fresh representation before the Director General within a period of 02 weeks from today and thereafter, the Director General shall decide the representation within next 4 weeks.
7. Till the petitioner's representation is decided, he shall be allowed to continue at his present place of posting.

Sd/-

Judge

(Prashant Kumar Mishra)

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