

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**WPS No. 5639 of 2016**

- Ramdayal Saket S/o Late Shri Rampati Saket, Aged About 61 Years Range Forest Officer, Rajpur Forest Division, Balrampur, District Balrampur Chhattisgarh

**---- Petitioner**

**Versus**

1. State of Chhattisgarh Through The Secretary, Forest Department, Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, Raipur Chhattisgarh
2. Divisional Forest Officer, Balrampur District Balrampur Chhattisgarh
3. Budh Sai Bhagat, Range Forest Officer, Udaipur (Production) Forest Division, Surguja District Surguja Chhattisgarh

**---- Respondents**

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|----------------------|---|------------------------------------|
| For Petitioner       | : | Shri Anup Majumdar, Advocate       |
| For Respondent/State | : | Shri D.R. Minj, Dy. Govt. Advocate |
| For Respondent No.3  | : | Shri Varunendra Mishra, Advocate   |

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**Hon'ble Shri Justice Manindra Mohan Shrivastava**

**Order On Board**

**02/02/2017**

1. Heard.
2. This petition has been filed, aggrieved by the impugned order dated 27/09/2016 by which the earlier transfer order dated 30/07/2016 was modified and the petitioner's place of posting was again changed even though petitioner has already joined at Janakpur Forest Division. Learned counsel for the petitioner further submits that on administrative exigency, by order dated 30/07/2016 petitioner was transferred from Janakpur (Baikunthpur) to Rajpur (Balrampur). The petitioner was relieved from Janakpur and he joined at Rajpur on 20/09/2016. Seven days thereafter, the impugned order was passed by which the petitioner posting was again amended and he was sent back to the place where from he was transferred. This led to filing of the petition.

3. Learned counsel for the petitioner submits that the petitioner has been subjected to frequent shifting. Once he complied with the transfer order after having been relieved and joined at Rajpur, without any acute administrative exigency, the respondent ought not to have again transferred back where from he had been transferred. It is submitted that it is completely arbitrary. It is also submitted that the petitioner is going to retire in the month of June 2017 and transfer has caused immense agony and hardship.
4. Learned State counsel submits that the order dated 27/09/2016 was passed in compliance of the direction of this Court issued vide order dated 05/08/2016 in W.P.(S) No. 3422/2016 filed by the respondent No. 3. In that order respondent No. 3 was directed to consider representation. Therefore, in consideration of representation of respondent No.3, his transfer was cancelled and he was allowed to continue at Rajpur only, therefore, occasion arose to modify the petitioner's transfer order and send him back to Janakpur. Learned counsel for the respondent No. 3 submits that even though this Court did not interfere with the transfer order which was challenged by him by filing writ petition, there was a direction to consider his representation and in consideration of his representation, the State cancelled the same, taking into consideration the ground raised in the representation.
5. It is not in dispute by order 30/07/2016, the petitioner was transferred from Janakpur to Rajpur. It is also not in dispute that by an order of even date, the respondent No. 3 was transferred from Rajpur to Udaypur in District Surguja. It is relevant to mention here that the Districts of Baikunthpur, Balrampur, Surguja and Ambikapur are adjoining each other. The petitioner was relieved from Janakpur on 20/09/2016 and he submitted his joining at Rajpur on the same day. The petitioner has placed on record order dated 20/09/2016 of Divisional Forest Officer, Balrampur Forest Division, which shows that respondent No. 3 was directed to handover the charge to the petitioner as the petitioner had joined at

Rajpur.

6. However, respondent No. 3 aggrieved with the transfer order filed petition before this Court which came up for hearing 05/08/2016. This Court, after having examined the grounds, held that no case is made out for interference by this Court, however, considering that the respondent No. 3 had a remedy of filing representation, allowed to him prefer representation. Thereafter, the impugned order came to be passed modifying the transfer of the petitioner and respondent No.3 in the manner that the petitioner was sent back to Janakpur and respondent No. 3 was continued at Rajpur.
7. The situation which was obtaining on record on the date of consideration of representation of respondent No. 3 was that the petitioner had already complied with the transfer order and had submitted his joining at Rajpur on 20/09/2016. It is not a case where respondent No. 3 was being subjected to frequent transfer by transferring him from Rajpur to Udaipur. The respondent No. 3 had not complied with the transfer order whereas the petitioner has complied with the transfer order and joined at Rajpur. From the return of respondent, I do not find that respondent had any specific reason to cancel the transfer of respondent No. 3 from Rajpur to Udaipur on the ground would result in great hardship to him. The children of respondent No. 3 are studying only in primary or middle school and it could not be ignored that the original transfer order was issued in the month of July and it is not a case of transfer of respondent No. 3 in mid-session. It is also not a case that the respondent No. 3 was subjected to any frequent transfer in the sense within a very short period he was being shifted to some other place. On the contrary, the petitioner happened to be an employee who was going to retire in the month of June 2017 and he had already given his joining on 20/09/2016 i.e. seven days before issuance to order of modification. Without any administrative exigency or reason assigned, State proceeded to cancel the transfer of respondent No.3. Therefore, modification the transfer order of the petitioner is absolutely arbitrary

and in mechanical manner. It appears that the direction of this Court to consider the representation of the respondent No. 3 has been conceived as a command of the Court to cancel the transfer order of respondent No. 3, which was not there in the order. The State was required to examine whether it was in exigency of service to cancel the transfer of respondent No. 3 particularly when the petitioner already complied with the transfer and there was no hardship caused to respondent No. 3 in complying with the transfer order. It is not a case where for any acute administrative exigency like complaint, misappropriation etc. the modification order was passed. Therefore, the impugned order is quashed and the petitioner shall continue to work at Rajpur. The respondent would be at liberty either to adjust respondent No. 3 at nearby place or direct him to require to proceed to Udaypur. As the petitioner is already continuing by virtue of interim order by this Court, salary shall be paid to him.

8. In view of the above, writ petition stands disposed of.

Sd/-

(Manindra Mohan Shrivastava)  
Judge