

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 142 of 2017**

- Mukesh Kumar Rai S/o Shri Charan Lal Rai, Aged About 44 Years R/o Q. No. 39, Type- 3, C R P F, Bharni, P. S. Chakarbhata, District Bilaspur (Chhattisgarh).

---- Appellant**Versus**

1. Union Of India Ministry Of Home Affairs, Through Director General, Central Reserve Police Force, Block No. 1, C. G. O. Complex, Lodhi Road, New Delhi 110003.
2. Special Director General, C R P F Campus, H C Block, Sector- III, Salt Lake, Kolkata (West Bengal) 700 106
3. Inspector General Of Police, Central Reserve Police Force, Chhattisgarh Sector H Q R, C R P F Old Hidayatullah National Law University, Near P H Q, Raipur, Chhattisgarh- 492001.
4. Deputy Inspector General Of Police, Group Centre, C R P F, Bharni, District Bilaspur (Chhattisgarh)

---- Respondents

For Appellant	:	Shri Kishore Bhaduri, Advocate
For Respondent 1	:	Shri R.K.Kesharwani, Advocate

Hon'ble the Chief Justice
Hon'ble Shri Justice Sanjay Agrawal, J

Order On BoardPer Justice Thottathil B. Radhakrishnan, C.J.**05/05/2017**

We have heard learned counsel for the appellant and learned counsel for the respondent/Union of India in this writ appeal challenging the Order of the learned Single Judge, through which, the writ petition was dismissed.

2. Under challenge before the learned Single Judge was an order of transfer, by which, the appellant, who is posted in Bilaspur has been transferred to Jagdalpur. The fact of the matter remains that the appellant worked in Jagdalpur

for a period of about 2½ years and was transferred from Jagdalpur to Bilaspur. Thereafter, he worked in Bilaspur for about 2½ years. He has now been transferred to Ops Range, Sukma. The learned Single Judge turned down the challenge to the transfer fundamentally on the ground that the matter relates to a uniformed service and the scope of interference by Courts regarding members of Armed Forces is far more limited and narrow. Reliance was placed on the judgment of the Hon'ble Supreme Court in **Major General J.K.Bansal v. Union of India and others, 2005 (7) SCC 227**. Relying on that judgment, the learned Single Judge has dissuaded himself from following the ratio of the judgment rendered in **State of India v. Anjan Sanyal & Others, 2001 (5) SCC 508** and **Union of India v. S.L.Abbas, 1993 AIR (SC) 2444**. The reasons for applying the ratio laid down in the case of **Major General J.K.Bansal** (supra) are apparent even from the facts of the case in hand. The plea of the appellant that a similarly situated person has been given posting in soft area, does not and cannot persuade us when we are dealing with a member of a uniformed service. We also do not see any sustained plea of malice, mala fide or arbitrary and capricious exercising administrative power in transferring the appellant from the Group Center at Bilaspur to Ops Range, Sukma. On facts and in law, the learned Single Judge was justified in refusing to interfere in exercise of authority under Article 226 of the Constitution of India. Discretion having been rightly exercised, we are of the view that no ground to interfere with the learned Single Judge's Order through an intra-court appeal is made out. This appeal, hence, fails.

In the result, this appeal is dismissed.

Sd/-

(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-

(Sanjay Agrawal)
Judge