

HIGH COURT OF CHHATTISGARH AT BILASPURWPS No. 4680 of 2018

Kanhaiya Lal Yadav S/o Shri Lakhan Lal Yadav, aged about 61 years,  
R/o Tikarapara, Yadav Mohalla, Bilaspur, Police Station City Kotwali,  
Tahsil & District Bilaspur (C.G.).

---Petitioner

**Versus**

1. State of Chhattisgarh, Through its Secretary, Department of Home (Police), Mahanadi, Mantralaya, Police Station & Post Rakhi, New Raipur, District Raipur (C.G.).
2. Director General of Police (D.G.P.), Police Headquarters (PHQ), Near Mahanadi Mantralaya, Police Station & Post Rakhi, New Raipur, District Raipur (C.G.).
3. Superintendent of Police (S.P.), Office of Superintendent of Police, Janjgir-Champa, District Janjgir-Champa (C.G.).

---Respondents

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|----------------|---|---------------------------------|
| For petitioner | : | Shri Abhishek Pandey, Advocate. |
| For State      | : | Shri Syed Majid Ali, Dy.G.A.    |

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Hon'ble Shri Justice P. Sam Koshy

Order on Board

06/08/2018

1. The challenge in the present Writ Petition is to the order Annexure-P/3 dated 19/06/2018 whereby the petitioner has been posted from District Janjgir-Champa to District Jashpur.
2. This Court vide order-sheet dated 26/07/2018 had directed the State Government to file their reply within 2 weeks' and the matter was listed for today.

3. Today also, the respondent-State have entered appearance and submits that, they have not been able to file their reply and prayed for time for the same.

4. The counsel for the petitioner at the same time submits that, the petitioner is aged more than 61 years of age and he has got barely less than 11 months of service left from superannuation and under the transfer policy it has been envisaged that, an employee who has got less than a year's of service left for superannuation would not be disturbed by way of transfer and thus prayed for an interim protection in this regard.

5. The respondent-State on the other hand submits that, since the petitioner has not been granted an interim protection by this Court on 26/07/2018 when the matter was listed, the petitioner has been relieved on 03/08/2018 and therefore the petitioner would be duty bound to join his service at Janjgir-Champa and thus prayed for dismissal of the Writ Petition.

6. Taking into consideration the fact that the State counsel has not been able to file their reply, this Court is forced to decide the Writ Petition with the available materials on record.

7. Annexure-P/1 is an Identity Card of the petitioner wherein his date of birth is reflected as 01/07/1957 i.e. the petitioner as on date is 61 years and a little over 1 month and the petitioner as such has got only about 10 months and few days left for his retirement.

8. The transfer policy undisputedly has a clause wherein it stipulates that any person who has got service of less than 1 year would not be disturbed by way of transfer.

9. In the instant case, the order of transfer Annexure-P/3 was issued on 19/06/2018 which means that on the date of issuance of transfer order, the petitioner had a service just over few days more than 1 year for retirement.

10. Given the fact it appears that, the respondents while issuing Annexure-P/3 have not taken into consideration the age of the petitioner while transferring about 9 persons along with the petitioner.

11. Be that as it may, this Court does not intend to keep the Writ Petition pending any further, rather ends of justice would meet if the Writ Petition itself is disposed off with a direction to the respondent No.2 to reconsider the case of the petitioner so far as his transfer is concerned on the petitioner making a detailed representation in this regard be filed within a period of 15 days from today. That on such representation being made, the respondent No.2 shall in turn pass a speaking order at the earliest preferably within a period of 30 days.

12. Considering the fact that even on the date of filing of the present Writ Petition, the petitioner was not relieved, however he has been abruptly relieved on 03/08/2018 and which till date has not been served upon the petitioner as is the contention of the petitioner. In view of the same, let the respondents issue an appropriate order for recalling his relieving order and

permitting him to resume his duties at District Janjgir-Champa till the representation of the petitioner is decided.

13. The Writ Petition accordingly stands disposed off.

Sd/-

**(P. Sam Koshy)**  
**JUDGE**

Sumit