

HIGH COURT OF CHHATTISGARH AT BILASPURWPS No. 6943 of 2018

Ramnivas Sharma S/o Late Shri Mathura Prasad Sharma, Aged About 59 Years, Working As Range Officer, Keshkal, Forest Division Keshkal District- Kondagaon, Chhattisgarh.

---Petitioner

Versus

1. State Of Chhattisgarh, Through The Secretary, Department Of Forest, Mantralaya, Mahanadi Bhavan, Naya Raipur, District- Raipur, Chhattisgarh.
2. Principal, Chief Conservator Of Forest, Atal Nagar, Raipur, Chhattisgarh.
3. Divisional Forest Officer, Division Keshkal, District- Kondagaon, Chhattisgarh.

---Respondents

For petitioner	:	Shri Jitendra Pali, Advocate.
For State	:	Shri Dheeraj Wankhede, Government Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

12/10/2018

1. With the consent of the parties, the matter was heard finally.
2. The challenge in the present Writ Petition is to the order Annexure-P/1 dated 05/10/2018 whereby the petitioner has been transferred from the post of Range Officer, Keshkal under Forest Division, Keshkal to the post of Range Officer, Amravati (Production) under Forest Division, South Kondagaon.
3. The contention of the counsel for the petitioner is that, the petitioner has been posted at Keshkal only on 14/08/2018 and he was joined on the said post on 29/08/2018. He was also given charge of the said post on

31/08/2018 and barely having work for about a month now the impugned order has been passed whereby the place of posting of the petitioner has been changed from Keshkal to South Kondagaon by way of an amendment order issued on 05/10/2018.

4. It is settled position of law that once when an order stands executed, any amendment to that order cannot be made and the only order which can be passed is an order to be passed afresh without there being any sort of amendment.

5. The view of this Court stands fortified from the decision of the Division Bench of this Court in the case of **Tarun Kanungo v. State of Chhattisgarh** [WA No. 248 of 2015 d/on 15/05/2015] wherein in paragraph 3 it has been held as under:-

"3. The question for cancellation of an order not in existence does not arise. The only option available to the authorities was to issue any fresh orders. We may appropriately refer to two Bench decisions in 2000 (2) PLJR 332 (Smt. Jyotsna Kumari v. The State of Bihar) and 2000 (3) PLJR 139 (Mahmood Azam Siddique v. The State of Bihar) observing as follows:

"12. Now it is a settled law that once an order of transfer issued and acted upon, it is spent its force. Thereafter, no substantive part remains to be stayed or rescinded and any order to that effect is redundant."

6. In view of the aforesaid factual matrix of the case and also taking into consideration the afore referred decision of the Division Bench of this Court,

this Court is of the opinion that prima-facie the impugned order so far as the transfer of the petitioner from Keshkal to South Kondagaon seems to be bad in law and the same to that extent deserve to be and is accordingly set-aside/quashed.

7. Reserving the right of the respondents to pass an appropriate order on the administrative side in case if there is any administrative exigency.

8. The Writ Petition accordingly stands allowed and disposed off.

Sd/-

(P. Sam Koshy)
JUDGE

Sumit