

HIGH COURT OF CHHATTISGARH AT BILASPURWPS No. 1587 of 2019

Amardeep Gajbhiye S/o Late Shri Bhau Das Gajbhiye, Aged About 54 Years R/o Shankarpur, Ward No. 09, Gali No. 02, Rajnandgaon, District Rajnandgaon Chhattisgarh., District : Rajnandgaon, Chhattisgarh

---- Petitioner

Versus

1. Food Corporation Of India Through Its Managing Director, 16-20, Barakhamba Lane, New Delhi., District : New Delhi, Delhi
2. Executive Director (West) Food Corporation Of India, Rajendra Nagar, Datta Pada Road, Borivali (East), Mumbai Maharashtra. 400066, District : Mumbai, Maharashtra
3. Regional Manager Food Corporation Of India, District Office Raipur, Vidhan Sabha Road, Kapa District - Raipur Chhattisgarh., District : Raipur, Chhattisgarh
4. Manager (Aagar) Fsd Neora (Old), Food Corporation Of India, Neora District - Raipur Chhattisgarh., District : Raipur, Chhattisgarh

---- Respondents

For Petitioner	:	Shri Shantam Awasthi, Advocate.
For respondent	:	Shri R. S. Patel, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

12/03/2019

1. The challenge in the present writ petition is to the order 8/12-2-2019 whereby the petitioner has been transferred from FSD, Neora to FSD, Manmad (Maharashtra).
2. Challenge is only on the ground that there does not seem any administrative exigency available but has been made only with an intention that the petitioner and other similarly placed persons may leave their

employment. It is the contention of the petitioner that the impugned order has been passed without proper verification of the fact as the requirement of the work force for the State of Chhattisgarh. According to the petitioner there are only 98 workers available in the State of Chhattisgarh and there are around 16 depots in the State of Chhattisgarh which is sufficient to indicate that there is availability of work with the respondents in the State of Chhattisgarh and under such circumstances the petitioner should have been retained in Neora itself or in the other depots within the State of Chhattisgarh. According to the petitioner by sending the petitioner out of Chhattisgarh, the respondents are taking work in depots of Chhattisgarh through contractual labour which itself would show as on date there was no administrative exigency for transferring the petitioner from the present place of posting to Manmad (Maharashtra).

3. Counsel appearing for the respondent, however, opposing the petition submits that it is a case where there are around 95 workers transferred from Neora to Manmad(Maharashtra) and the fact that the transfer order issued is in respect of the 95 workers, would itself show that it is not issued with any malafide but has been issued only on administrative exigency. According to the respondent the said action has been taken pursuant to the decision of the Bombay High Court passed in public interest litigation.

4. Having heard the counsel for the parties and perusal of the record what clearly reflects is that there was a public interest litigation filed before the Bombay High Court that is PIL 84/2014 in respect of certain financial mismanagement within the respondent establishment. The PIL also was filed

highlighting the fact of wages being paid to a large number of workers posted in the different depots of the respondent sitting idle without any work. The Bombay High Court finally disposed off the writ petition vide its order dated 20/11/2015 and wherein the High Court had categorically held that the respondent should take steps in ensuring that the idle workers available in the different depots of the respondent should be utilised for the different works available in the other different depots. The impugned order in the instant case therefore seems to have been passed in the light of the judgment of the Bombay High Court. At this juncture what is to be seen is that admittedly the services of the petitioner was a transferable service. The petitioner has been working at Neora in the State of Chhattisgarh for quite some time, the respondent on administrative side issued an order in respect of around 94 persons who have been sent from FSD, Neora to FSD, Manmad(Maharashtra). There is no specific allegation of any malafide attributed against the officers of the respondents for issuance of the order of transfer. Transfer has been held by the Bombay High Court in the public interest litigation itself as an incidence to service. The workers cannot claim any sort of immunity or protection for not being transferred from one depot to another depot.

5. Given the said facts and circumstances, this Court does not find any strong case made out by the petitioner requiring interference with the impugned order. If the petitioner have some personal inconvenience on the execution of the impugned order of transfer, he would be at liberty to prefer a representation before the concerned authorities of the respondent who in

turn are expected to consider and decide the representation in accordance with the rules and regulations and also taking into consideration the contents of the representation that the petitioner would make.

6. The writ petition accordingly stands disposed off.

Sd/-

(P. Sam Koshy)
JUDGE

Rohit