

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 6013 of 2019

Yogendra Ojha S/o Late Shri N.N. Ojha Aged About 58 Years R/o MIG - 1, 2886, Housing Board, Bhilai, P.S.- Jamul, Tahsil and District Durg Chhattisgarh.

---- Petitioner(s)

Versus

1. State of Chhattisgarh Through Secretary, Department Of Home / Police, Mahanandi Bhawan, Mantralaya, Police Station Rakhi, Atal Nagar, Raipur District Raipur Chhattisgarh.
2. Director General Of Police (D. G. P.) Police Headquarters (PHQ), Near Mahanandi Bhawan, Mantralaya, Police Station Rakhi, Atal Nagar, Raipur District Raipur Chhattisgarh.
3. Inspector General Of Police (I. G. P.) Office Of Inspector General Of Police (I.G. P.), 32 Bungalow, Bhilai, District Durg Chhattisgarh.
4. Superintendent Of Police (S. P.) Office Of Superintendent Of Police (S. P.), Durg District Durg Chhattisgarh.

---Respondents

For Petitioner	:	Shri Abhishek Pandey and Ms. Aarti Manjhi, Advocates.
For State	:	Shri Jitendra Pali and Shri Chandresh Shrivastava, Dy. Advocate Generals.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

14.08.2019

1. Challenge in this writ petition is the order dated 22.07.2019 (Annexure P/4) whereby the petitioner has been transferred from Police Head Quarter Raipur to District Bijapur. The petitioner is a Head Constables working under the Police Department of the State.
2. It is relevant at this juncture to take note of the provisions of Rule-22 of the Chhattisgarh Police Act, 2007, which for ready reference is being reproduced herein:

“22. Police Establishment Board: (1) The State Government shall by a notification constitute a Police Establishment Board (hereinafter referred to as the "Board") with the Director General of Police as its Chairman and four other senior police officers not below the rank of Deputy Inspector General of Police.

(2) The Board shall perform the following functions and duties -

(a) Transfer of subordinate ranks up to the level of Inspector from one Zone or Range or District to another;

(b) Receive and examine representation from police officers aggrieved by any order of superior officers, other than the orders passed under the rule made under the Article 309 of the Constitution of India and: -

I. Decide such representation if it is received from a police officer of the sub-ordinate rank;

II. Make recommendation to the State Government in other cases.

(c) Such other functions and duties as may be prescribed.

(3) The State Government may review the orders passed by Police Establishment Board on representation made by aggrieved Police Officers within 90 days from the date of order.”

3. Clause-2(a) of Rules, 2007, empowers the Police Establishment Board to look into the issue of transfer of subordinate in the police department up to the rank of Inspector from one Zone or Range or District to another.
4. The counsel for the State, on instructions, submits that the order of transfer has been passed after proper approval from the Police Establishment Board constituted by the State Govt.
5. At this juncture, it has been brought to the notice of the court that the petitioner is more than 58 years of age and that vide the impugned order the petitioner has been transferred to Bijapur (Core Scheduled Area). The transfer policy framed by the State Govt. has a specific clause that a persons who is more than 55 years of age would not be transferred to a Scheduled Area as far as possible, yet the petitioner has been transferred to place which is not just a Scheduled Area, but is a Core Scheduled Area.
6. Given the facts and circumstances of the case, particularly taking note of the transfer policy of the State Govt., this court is of the opinion that let the

petitioner approach the Police Establishment Board by way of a proper representation. However, till the representation of the petitioner is decided by the Police Establishment Board, the respondent authorities are restrained to take any co-ercive steps against the petitioner and he would be permitted to discharge his duties at the place where he was posted prior to the issuance of the impugned order dated 22.07.2019 (Annexure P/4).

7. The Police Establishment Board is expected to take a decision on the representation of the petitioner preferably within a period of 45 days from the date of receipt of representation.
8. Accordingly, the writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

inder