

HIGH COURT OF CHHATTISGARH, BILASPUR**WRIT PETITION (S) NO.6012 OF 2019**

Sandeep Kumar Pandey S/o Mani Shankar Pandey Aged About 40 Years
Posted As Food Inspector, Korba, District Korba Chhattisgarh.

...Petitioner(s)

Versus

1. State of Chhattisgarh Through The Secretary, Food And Civil Supplies, Department, Mantralaya, Mahanadi Bhawan, Atal Nagar, Raipur, District Raipur Chhattisgarh.
2. Under Secretary, State of Chhattisgarh, Food and Civil Supplies, Department, Mantralaya, Mahanadi Bhawan, Atal Nagar Raipur District Raipur Chhattisgarh.
3. Collector, Korba, District Korba Chhattisgarh.

... Respondent(s)

For Petitioner	:	Shri Mazid Ali, Advocate
For Respondent-State	:	Shri Chandresh Shrivastava, Dy. A.G.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

13.08.2019

1. The present writ petition has been filed against the order dated 02.08.2019 whereby the representation which the petitioner has made has been rejected.
2. The facts of the case is that, the petitioner was transferred vide order dated 20.02.2019 from Korba to District Bijapur. The said order of transfer was subjected to challenge in WPS No.1804 of 2019. The writ petition was disposed of on 18.03.2019. The petitioner was also granted an interim protection. The representation which the petitioner now made has been rejected vide impugned order dated 02.08.2019.
3. The ground of challenge by the petitioner in this petition is that the impugned rejection of representation is totally without considering the transfer policy of the State Govt. and thus is bad in law. It is further the contention of the petitioner that the respondent authorities have not even dealt with any of the contentions which the petitioner has raised in his representation, nor have they discussed anything in respect of the transfer policy.

4. All said and done, what cannot be lost sight of is the fact that the petitioner undoubtedly is holding a transferable post. The petitioner in the past has remained in and around Korba district for about 10 years. The petitioner now has been transferred to Bijapur, as such, he cannot claim for being posted at a nearby vacant post in the department.
5. It is by now well settled proposition of law that so far as transfer is concerned, it is purely the prerogative of the State Govt. to decide who is to be posted where and for what duration. The High Court in exercise of its power of judicial review cannot substitute itself as an administrative higher authority of the department to determine the place of posting of a particular officer/employee. The same can be invoked only in case the order is contrary to service Rules or has been issued with malafides.
6. Further, it has always been held by the Supreme Court that the guidelines framed by the State Govt. would not have a force of law, but is only an guiding factor which cannot be claimed as a matter of right for a person to either remain at a particular place or to post him at the place of his choice.
7. Given the aforesaid facts, this court is of the opinion that there is no scope of interference to the impugned order at this juncture keeping in view the legal position as it stands. The writ petition fails and is accordingly rejected.
8. Our reluctance to entertain the writ petition would not preclude the petitioner from approaching the authorities in the department for a suitable posting elsewhere.

Sd/-

(P. Sam Koshy)
Judge