

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 7003 of 2019

1. D. P. Bhoy, S/o Shri Udaychand Bhoy, Aged About 60 Years, R/o MIGA/ 1, Chandela Nagar, Police Station Civil Lines, Ring Road - 2, Bilaspur, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Its Secretary Water Resource Department, Mantralaya, Mahanadi Bhawan, Atal Nagar, Naya Raipur, District: Raipur, Chhattisgarh
2. Under Secretary, Water Resource Department, Mantralaya, Mahanadi, Bhawan, Atal Nagar, Naya Raipur, District: Raipur, Chhattisgarh
3. Joint Secretary, Water Resource Department, Mantralaya, Mahanadi Bhawan, Atal Nagar, Naya Raipur, District: Raipur, Chhattisgarh
4. Chandrahas Shukla, Presently Posted As Assistant Engineer, Office Of Sub Divisional Officer, Sub - Division - Takhatpur, District – Bilaspur, Chhattisgarh

---Respondents

For Petitioner	:	Ms. Ruchi Nagar, Advocate
For State	:	Mr. P. Acharya, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy

Order on Board

06.09.2019

1. The challenge in the present Writ Petition is to the impugned order Annexure P-2 dated 23.08.2019, whereby modification is to the order dated 13.08.2019 (Annexure P-1), instead of transferring the petitioner to Kharang as Sub-Divisional Officer, Sub-Division: Bilaspur has been ordered to be sent to the Office of the Executive Engineer Water Resource Division, Kota, District: Bilaspur.

2. The primary challenge to the impugned order is the posting of the Respondent No. 4 in place of the petitioner at Ratanpur.
3. According to the petitioner, the Respondent No. 4 is a temporary Assistant Engineer, who has been promoted only the creation of the supernumerary post and that the Respondent No. 4 is not a confirmed regular Assistant Engineer and, therefore, he could not have been assigned the charge of the Sub-Divisional Officer, which could have been only assigned to a regular Assistant Engineer in the department.
4. The said contention of the petitioner would not be one which could be taken note of while considering the transfer order of the petitioner, so far as the petitioner is concerned, he is substantively an Assistant Engineer and is being posted as a Sub-Divisional Officer. The petitioner was working at Ratanpur and is now being sent to Kota. The distance between the two place is too meager a distance, which requires a judicial review of this Court under Article 226 of the Constitution of India.
5. Moreover, the order of promotion Annexure P-3 (17.09.2018), so far as the petitioner is concerned, also shows that he has been promoted in September, 2018 on temporary basis. So, also the Respondent No. 04 has been shown to have been promoted temporarily as an Assistant Engineer.
6. Given the said fact, what cannot be lost sight is that the two places of transfer is not too far-off distance, which would cause inconvenience to the petitioner. As substantive post of the petitioner and the service benefits which the petitioner is entitled for is not getting adversely affecting in any manner.

7. The law is well settled that the High Court under Article 226 of the Constitution of India would not interfere with an order of transfer unless it is contrary to service condition governing the petitioner or has been issued by an incompetent authority or has been issued with malafides.
8. In view of the same, this Court does not find a strong made out for interfering with the said order of transfer. Our reluctance to entertain the Writ Petition would not preclude the petitioner from approaching the authorities in the department by making a suitable representation for ventilating his grievance, so far as his posting as well as the substantive claim for the post of Sub-Divisional Officer is concerned.
9. If such representation is made, the same should be decided in accordance with the Rules and Regulation governing the field at the earliest.
10. Accordingly, the present Writ Petition stands disposed off.

Sd/-
(P. Sam Koshy)
Judge