

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 7052 of 2019

Dalsoo Ram Darro S/o Raghunath Darro Aged About 58 Years R/o Quarter
No. F/1, Irrigation Colony, Barpali, Korba, District : Korba, Chhattisgarh
--- Petitioner

Versus

1. State of Chhattisgarh through- Secretary, Water Resources Department
Mantralaya, Mahanadi Bhawan, Atal Nagar, Naya Raipur, District- Raipur,
Chhattisgarh.
2. Engineer-In-Chief Water Resources Department, Shivnath Bhawan, Naya
Raipur, District- Raipur, Chhattisgarh.
3. Chief Engineer Ganga Kachar, Water Resources Department, Ambikapur,
District : Surguja (Ambikapur), Chhattisgarh
4. Shri Vijay Jamnik Assistant Engineer, O/o Executive Engineer, Water
Resources Division, Balrampur, District : Balrampur, Chhattisgarh
--- Respondents

For the Petitioner	: Mr. Praveen Das, Advocate
For the State/Respondents	: Mr. Amrito Das, Addl. Advocate General
For respondent No.4	: Dr. N.K. Shukla, Senior Advocate with Mr. Ashish Shukla, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

12-12-2019

1. Heard.
2. The present petition is against the order dated 23.08.2019 (Annexure P-1).
3. Shorn of unnecessary details, the short facts giving rise to the instant
petition are that by order dated 09.08.2019 (Annexure P-2) the petitioner
who is working as Executive Engineer, Water Resources Department was
initially transferred from Division Jashpur to Division Balrampur on
administrative ground and in place of the petitioner, respondent No.4 Vijay
Jamnik who is shown to be an Assistant Engineer was posted as In-charge

Executive Engineer at Jashpur in Water Resources Department transferring him from Balrampur. The original order of transfer dated 09.08.2019 whereby the petitioner was transferred from Jashpur to Balrampur was subject of challenge in WPS No. 6593 of 2019 and this Court by order dated 28.08.019 has passed the following order:

1. Challenge in the present writ petition is to the order dated 09.08.2019 whereby the petitioner has been transferred from Jashpur to Balrampur.

2. The grievance of the petitioner seems to be more on the person who is replacing the petitioner. According to the petitioner, the reliever to the petitioner i.e., respondent no.2 whose name appears at Serial No.14 in the impugned order dated 09.08.2019 is substantively an Assistant Engineer and is being sent as Executive Engineer which is contrary to Clause 2.14 of the Transfer Policy of the State. Further, the impugned order has been passed only to accommodate the respondent no.2. Therefore, the impugned order is bad in law.

3. Both the grounds raised by the petitioner would not be sustained for challenging the order of transfer for the reason that firstly the order of transfer reflects that it is not just a transfer between the petitioner and respondent no.2, but there are about 36 persons transferred vide impugned order. Secondly, what is revealed is that the petitioner at the present place has been posted for more than three years i.e., he has completed the normal tenure of posting at one place. Thus, it cannot be said that the order of transfer has been passed contrary to the transfer policy so far as tenure is concerned. More over, the petitioner as such who is an Executive Engineer is being sent against a vacant post of Executive Engineer and therefore, there will be no adverse affect on the service conditions of the petitioner on being transferred from present place of posting to the transferred place.

4. For all the aforesaid reasons, this Court is of the opinion that no strong case is made out for interference with the impugned order of transfer. However, it is mentioned that in

case if the petitioner makes a representation, the respondents would be free to consider the representation on its merit in accordance with law.

5. With the aforesaid observations, the writ petition stands rejected.”

4. Subsequently the present petition has been preferred on the ground that on 23.08.2019 (Annexure P-3) the said transfer and posting of petitioner as well as respondent no.4 was cancelled and again the transfer to the place was restored by order dated 23.08.2019 (Annexure P-1) itself.
5. Learned counsel for the petitioner would submit that the said transfer is malafide as no note sheets have been placed on record to show as to why such one transfer was made again cancelled then again restored. It is contended that it was all made to accommodate to respondent no.4, therefore, the mala-fide act is on the face of it. It is further contended that under the circumstances, this Court by an interim order has protected the petitioner to be transferred from Jashpur to Balrampur.
6. Per contra, learned counsel for respondent no.4 vehemently opposes the argument and would submit that the earlier order while the Court was in seizin of the matter has already considered the transfer of the petitioner and such writ petition was dismissed. Therefore, the issue having been settled by this Court, it cannot be gone back as no writ appeal was preferred.
7. Having heard the parties and after going through the record, it shows that initially the petitioner was transferred from Jashpur to Balrampur, which was subject of challenge by the petitioner in WPS No.6593 of 2019 wherein this court has passed the order on 28.8.2019 (Supra). The documents which are filed on record would show that while it was being adjudicated before the Court, on 23.08.2019 the transfer order of the petitioner and the respondent was cancelled. Subsequently, again it was restored by order

dated 23.08.2019 itself (Annexure P-1) which is under challenge in the instant petition. The order of the High Court is dated 28.08.2019. In any case, the fact would suggest that the situation that petitioner was transferred from Jashpur to Balrampur was considered by this Court on 28.08.2019 after the order dated 23.08.2019. So, in substance, the primary challenge of transfer from Jashpur to Balrampur was adjudicated. This Court having dismissed the petition earlier preferred, reconsideration of transfer would almost amount to review of the earlier order passed by this court wherein the subject issue of a particular transfer from one place to another was considered and was dismissed.

8. In the result, I do not find any merit in the instant writ petition. Accordingly, it is rejected.

**Sd/-
GOUTAM BHADURI
JUDGE**