

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 7925 of 2019

1. Pradeep Kumar Meher, S/o Shri S.B. Meher, Aged About 47 Years, Occupation: Service, R/o C- 303, Raheja Residency, Opposite St. Xaviers School, Awanti Vihar, District : Raipur, Chhattisgarh

---- Petitioner

Versus

1. Bank Of Baroda Through Its Deputy General Manager, Regional Office, Jeevan Prakash, Jeevan Bima Marg, Pandari, District : Raipur, Chhattisgarh
2. Bank Of Baroda Through Its General Manager, Bhopal Zone, Maharana Pratap Nagar, District : Bhopal, Madhya Pradesh
3. Shrinivas Pathak Senior Manager (Law), Regional Office, Bank Of Baroda, Jeevan Prakash, Jeevan Bima Marg, Pandari, District : Raipur, Chhattisgarh

---Respondents

For Petitioner	:	Mr. Siddharth Rathod, Advocate.
For Respondents/State	:	None

Hon'ble Shri Justice P. Sam Koshy

Order on Board

27.09.2019

1. The challenge in the present Writ Petition is to the order Annexure P-1 dated 04.09.2019, whereby the respondent authorities have transferred the petitioner from the Office of Raipur to the Office of Jabalpur, (M.P.).
2. The solitary ground that the petitioner has raised is that, he has recently been transferred vide order dated 16.08.2019, whereby the petitioner was transferred from Mahasamund to the Regional Office at Raipur and in compliance of that, the petitioner was relieved from

the office at Mahasamund on 27.08.2019. That on the next date ie., on 28.08.2019, the petitioner gave his joining at Raipur and immediately in less than a weeks' time, he has again been transferred from Raipur to Jabalpur.

3. According to the petitioner, it is a case of frequent transfer and the petitioner could not be subjected to frequent transfer. He further submits that, in compliance of the order dated 16.08.2019; he gave his joining at Raipur and also undergone the entire exercise of transfer and shifting. He further submits that, transfer causes great inconvenience, difficulties and he has again been shifted from Raipur to Jabalpur.
4. Moreover, the petitioner has also raised certain difficulties at personal and domestic level, which the petitioner has expressed to the concerned authorities. It was further contention of the petitioner that, the impugned order of transfer was only to accommodate the Respondent No. 3 at Raipur, who earlier was proposed to be transferred to Jabalpur. Now subsequently the impugned order has been passed making an inter-change between the petitioner and the Respondent No. 3. Thus, the order of transfer seems only to accommodate the Respondent No. 3 when there being no administrative exigency.
5. Given the said facts and circumstances of the case, what needs to be considered at this juncture is, undoubtedly, the service of the petitioner is a transferable service. The nature of service of the

petitioner is one where the petitioner could be posted at any point of time to a different place.

6. Recently, there has been amalgamation of Vijaya Bank, Dena Bank with the respondent bank ie., Bank of Baroda. As a consequence of amalgamation, merger to these banks, there has been reshuffling of the employees and officers posted in these 3 organizations, which has now become one entity as is reflected from the media reports and also from the print media. This could be the cause for the transfer of the petitioner.
7. The law so far as the transfer is concerned, by now is well settled, unless there is malafide from the order of transfer or the transfer is contrary the service conditions of the petitioner or has been issued by a person who is not competent. The order of transfer cannot be interfered with by the High Court under Article 226 of the Constitution of India.
8. The view of this High Court stands fortified from the judgment of the Supreme Court in the case of **State of U.P. Vs. Siyaram (2004) 7 SCC 405**, wherein the Supreme Court has held as under:-

“The High Court while exercising jurisdiction under Articles 226 and 227 of the Constitution of India had gone into the question as to whether the transfer was in the interest of public service. That would essentially require factual adjudication and invariably depend upon peculiar facts and circumstances of the case concerned. No government servant or employee of a public undertaking has any legal right to be posted forever at anyone particular place or place of his choice since transfer of a particular employee appointed to the class or category of transferable posts from one place to other is not only an incident, but a condition of service, necessary too in public interest and efficiency in the public administration. Unless an order of transfer

is shown to be an outcome of mala fide exercise or stated to be in violation of statutory provisions prohibiting any such transfer, the Courts or the tribunals normally cannot interfere with such orders as a matter of routine, as though they were appellate authorities substituting their own decision for that of the employer/management, as against such orders passed in the interest of administrative exigencies of the service concerned. This position was highlighted by this Court in *National Hydroelectric Power Corpn. Ltd. V. Shri Bhagwan*”.

9. A Similar view has also been taken by the Supreme Court in case of **Union of India and others V. Janardhan Debanath and others (2004) 4 SCC 245.**

10. Again, in the case of **State of U.P. and others V. Govardhan Lal**, wherein the Supreme Court referring to the transfer policy of the State Govt. have categorically held that such policies do not have force of law nor is it mandatorily to be followed. Those are only guidelines which the authorities have to bear in mind while making the transfer. The Supreme Court in Paragraph 7 & 8 in the said judgment has held as under:-

“7. It is too late in the day for any government servant to contend that once appointed or posted in a particular place or position, he should continue in such place or position as long as he desires. Transfer of an employee is not only an incident inherent in the terms of appointment but also implicit as an essential condition of service in the absence of any specific indication to the contra, in the law governing or conditions of service. Unless the order of transfer is shown to be an outcome of a mala fide exercise of power or violative of any statutory provision (an Act or Rule) or passed by an authority not competent to do so, an order of transfer cannot lightly be interfered with as a matter of course or routine for any or every type of grievance sought to be made. Even administrative guidelines for regulating transfers or containing transfer policies at best may afford an opportunity to the officer or servant concerned to approach their higher authorities for redress but cannot have the consequence of depriving or denying the competent authority to transfer a

particular officer/ servant to any place in public interest and as is found necessitated by exigencies of service as long as the official status is not affected adversely and there is no infraction of any career prospects such as seniority, scale of pay and secured emoluments. This Court has often reiterated that the order of transfer made even in transgression of administrative guidelines cannot also be interfered with, as they do not confer any legally enforceable rights. Unless as noticed supra, shown to be vitiated by mala fides or is made in violation of any statutory provision.

8. A challenge to an order of transfer should normally be eschewed and should not be countenanced by the Courts or tribunals as though they are Appellate Authorities over such orders, which could assess the niceties of the administrative needs and requirements of the situation concerned. This is for the reason that courts or tribunals cannot substitute their own decisions in the matter of transfer for that of competent authorities of the State and even allegations of mala fides when made must be such as to inspire confidence in the court or are based on concrete materials and ought not to be entertained on the mere making of it or on consideration borne out of conjectures or surmises and except for strong and convincing reasons, no interference could ordinarily be made with an order of transfer”.

11. So far as contention of the petitioner that the impugned transfer order is contrary to the policy of the Respondent Establishment is concerned, the policies are mere guidelines and not controlled by any statutory provisions. The effect thereof is advisory in character and thereby no legal right is conferred upon the employee. **Chief Commercial Manager, Sought Central Railway, Secundarabad & others V. G. Ratnam & others 2007 (8) SCC 212.**

12. The Supreme Court, in **Airports Authority of India V. Rajeev Ratan Pandey & others, 2009 (8) SCC 337** held that “In a matter of transfer of a government employee, scope of judicial review is limited and the High Court would not interfere with an order of

transfer lightly, be it at interim stage or final hearing. This is so because the Courts do not substitute their own decision in the matter of transfer”.

13. From the aforesaid judgment of the Supreme Court, it stands apparently clear that, in the interest of administrative exigency, if the employer has issued an order of transfer, the same cannot be interfered as a matter of routine by the High Court in exercise of its powers of judicial review.
14. That so far as the contention of the petitioner that, the orders have been made only to accommodate the Respondent No. 3 is concerned, the same may also be possible for the reason that, the Respondent No. 3 having been transferred to Jabalpur, must have made a representation highlighting the inconvenience and difficulties he faces. The respondent authorities might have considered the same and must have passed an order in favour of the Respondent No. 3. It could be that the children of the Respondent No. 3 may be undergoing some studies which may get hampered at this mid-session, which may not exist in the case of petitioner. As a consequence, the petitioner could have been shifted from Raipur to Jabalpur.
15. Malafides cannot be attributed on the State Government to such action taken by the Respondents. These are administrative powers which stands conferred upon the employer. The authoritative judgment referred in the preceding paragraphs clearly spell-out, that it is exclusively within the domain of the employer to decide where,

when and for how long the employee should be permitted to work at a place. The petitioner as such, can not choose his own place of posting and decide the tenure of posting.

16. Given the said facts and circumstances of the case, on account of the administrative exigency, at times there are order of transfer which are issued /modified/amended by the employer which again is within their powers, thus this Court does not find a strong case made out to interfere with the impugned order.

17. The present Writ Petition thus fails and is accordingly rejected.

**Sd/-
(P. Sam Koshy)
Judge**