

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 2009 of 2020**

- Syed Khasim Ali S/o S.A.K. Pasha Aged About 40 Years R/o Constable (GD) Service No. 010090622, TAC, SHQ, BSF Bhilai, Opposite-Sbi Maroda Branch, Risali Sector Bhilai, Distt. Durg (C.G.) Mobile No. 7869564201

---- Petitioner**Versus**

1. Union Of India Through- The Secretary, Ministry Of Home Affairs , Cgo Complex Lodhi Road, New Delhi.
2. Inspector General HQ, (Spl Ops), Border Security Force, Bsp Hs Building, Opp.- Sbi Maroda Branch Risali Sector, Bhilai, Distt. Durg (C.G.)- 490006
3. Dy. Inspector General TAC, SHQ, Bsf Bhilai, Opposite- Sbi Maroda Branch, Risali Sector Bhilai, Distt. Durg (C.G.) 490006

---- Respondents

For Petitioner : Shri Shrawan Agrawal, Advocate

For Respondents/UOI : Shri R.K. Kesharwani, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****22/05/2020**

1. Heard.
2. Challenge in this petition is to the order dated 16th of April, 2020 (Annexure P-1), whereby the petitioner has been transferred to 167 Bn BSF, Durgukondal, district Kanker. Challenge is also to the relieving order dated 2nd of May, 2020.
3. Learned counsel for the petitioner would submit that the petitioner initially was transferred on 24.02.2018 from Bande, Kanker to Bhilai and as per the transfer policy Annexure P-10 dated 5th of September, 2016 a person who is placed in a

tenure in a Frontier will continue there for a period of six years and the petitioner having been posted at Bhilai in 2018 he should not have been transferred before the period of 6 years. He would further submit that the petitioner is suffering with the diabetes type -II and in this pandemic situation there was no necessity on behalf of the respondents to transfer the petitioner to other place. He would further submit that the representation having been filed by the petitioner, the same is been kept in abeyance on the ground that once the petitioner joins the place of transfer then only his representation will be considered. He would further submit that the transfer is bad in law as it is against the policy, therefore, the petitioner's transfer is required to be quashed.

4. Per contra, learned counsel for the respondent vehemently opposed the arguments advanced by learned counsel for the petitioner and would submit that the transfer is an incidence of service the same cannot be interfered.
5. I have heard learned counsel for the parties and perused the documents.
6. The petitioner was transferred to Bhilai vide Annexure P-3. It has not been established before this Court as to whether the Bhilai falls within the subject frontier as the frontier normally denotes wherein the aggressive activities are being carried out. The petitioner having been transferred from Bhilai to Durgukondal, district Kanker, the respondents would be in a better position to appreciate the demand of a particular person at a particular place. It is well settled law that the transfer of a Government Servant appointed to a particular cadre of transferable post from one place to the another is an incident of service, which cannot lightly be interfered with by Courts unless it is shown to be clearly arbitrary or visited by malafide or infraction of any prescribed norms of principles governing the policy of transfer which causes serious prejudice.

The documents further shows that the petitioner has filed the representation and the said application for reconsideration of the transfer has not been canceled at the threshold and the liberty is reserved in favour of the petitioner that on joining at the transferred place, his representation would be considered. Taking into such fact, I do not find any merit in this case to interfere with the transfer order. It is expected that the petitioner, if he joins at the new place of posting, his representation which is pending would be considered objectively.

7. With the aforesaid observation, the writ petition stands disposed of.

Sd/-
Goutam Bhaduri
Judge

Ashu