

HIGH COURT OF CHHATTISGARH AT BILASPUR**WRIT PETITION (S) NO. 4408 OF 2020**

- Anuranjna Ekka, D/o Late Ignesh Ekka, Aged About 41 Years, Profession Patwari, P.H. No. 18, Head Office Village Janji, Sub Tahsil Seepat, Tehsil Masturi, District Bilaspur, Chhattisgarh, Permanent R/o Ganesh Nagar, Nayapara, Mariyamtoli, Police Station Sirgitti, Tahsil and District Bilaspur, Chhattisgarh.

... Petitioner**versus**

1. State of Chhattisgarh, through the Secretary, Department of Revenue and Disaster Management, Mahanadi Bhavan, Mantralaya, Police Station and Post Rakhi, Nawa Raipur, Atal Nagar, District Raipur (CG)
2. Collector, District Bilaspur, Chhattisgarh.
3. Sub Divisional Officer (Revenue), Masturi, District Bilaspur (CG)
4. Tehsildar, Tehsil Masturi, District Bilaspur (CG)
5. Naib Tahsildar, Sub Tahsil Seepat, Tehsil Masturi, District Bilaspur (CG)
6. Monika Verma Mishra, Deputy Collector, working on the post of Sub Divisional Officer (R), Masturi, District Bilaspur (CG)
7. Manoj Khande, Working Tehsildar, Tehsil Masturi, District Bilaspur (CG)
8. Sandhya Namdeo, working Naib Tehsildar, Sub Tehsil Seepat, District Bilaspur (CG)
9. Tulsi Rathore, Tehsildar, working Additional Tehsildar, Sub Tehsil Seepat, District Bilaspur (CG)
10. Chandramani Pandey Kanoongo, Tahsil Masturi, District Bilaspur (CG)

... Respondents

For Petitioner	:	Mr. Santosh Kumar Pandey, Advocate.
For Respondents/State	:	Ms. Akansha Jain, Dy. G.A.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****03/12/2020**

1. Petitioner's challenge in the present writ petition is to the transfer order dated 14.11.2019 (Annexure P-1) and also to the suspension orders dated 9.12.2019 (Annexure P-4) and 27.2.2020 (Annexure P-26). Petitioner further has also questioned the departmental enquiry proceedings initiated vide order dated 24.8.2020 (Annexure P-30).

2. Issue involved in the present writ petition has already came up for consideration before this Court on an identical set of facts and this Court vide its order dated 26.11.2020 passed in WPS No. 4425/2020 dismissed the said writ petition.

3. In addition to the arguments that were advanced by learned counsel for petitioner in WPS No. 4425/2020, he further submits that this Court in WPS No. 7050/2019 (Vijay Soni Vs. State of Chhattisgarh & Others) disposing of the said

writ petition had granted an interim protection to the similarly placed person. Further argument of learned counsel for petitioner is that a Division Bench of this High Court has in WA No. 811/2018 (Khushboo Tiwari Vs. State of Chhattisgarh & Others), which was an appeal arising out of the dismissal of the WPS No. 5919/2018, disposed of the appeal directing the appellant therein to prefer a representation and the representation be decided on merits and till then an interim protection was granted. Further contention of learned counsel for petitioner is that the orders to be passed by this Court should be after due framing of the issues that have been raised by the petitioner in his writ petition.

4. The core issue involved in the present writ petition is the change of place of posting of the petitioner vide initial order dated 4.11.2019 (Annexure P-1) posting her from Patwari Halka No.18 (Janji) to Patwari Halka No.11 (Kukda). Both these places fall within the same Tehsil as well as within the same sub division and also under the same Sub Divisional Officer (Revenue). Learned counsel for petitioner submits that the distance between the aforesaid two place of posting is hardly 20km. This Court while deciding WPS No. 4425/2020 on 26.11.2020 had taken note of this fact that since it is an order of posting from one Patwari Halka to another Patwari Halka and the distance between the places being too short a distance to cause any inconvenience to the petitioner nor is there any prejudice being caused to the service conditions of the petitioner by virtue of the impugned order being passed and thus this Court dismissed the said writ petition.

5. Another fact which needs consideration in the present writ petition is that the petitioner on the earlier occasion had challenged the very same transfer order by way of WPS No. 10916/2019 and the said writ petition was disposed of on 7.1.2020 at the behest of the petitioner herself wherein a request was made for the disposal of the writ petition asking the concerned Sub Divisional Officer to decide the representation of the petitioner. There was no interim order as such granted by the Writ Court at that point of time when the writ petition was being disposed of almost 12 months back on 7.1.2020.

6. Pursuant to the disposal of WPS No. 10916/2019, petitioner made a representation in addition to the representation that was already submitted by her and the authorities concerned decided the said representation on 25.1.2020. Surprisingly, the said order dated 25.1.2020 has not been challenged by the petitioner thereafter rejecting his representation thereby she was supposed to report for duty at the new place of posting. Petitioner did not comply with the said order and kept on making correspondences with the authorities concerned and in the process the petitioner got suspended and a departmental enquiry has also now been initiated.

7. So far as the ground which the petitioner has raised as regards the interim order passed by this Court WPS No.7050/2012 is concerned, the ground of consideration in that case was entirely different because of the petitioner therein being an office bearer of a union and had some protection from the government policy, which is not a ground in the present writ petition.

8. So far as the order passed by the Division Bench in WA No. 811/2018 on 14.12.2018 is concerned, that again is not an order adjudicating upon the issue raised by the parties, the writ appeal was simply disposed of directing the appellant to make a representation and the respondent authorities were directed to consider the representation; meanwhile there was an interim protection.

9. Learned counsel for petitioner further submitted that whatever contentions that he has raised before the authorities by way of representations (Annexures P-20 & P-25) and the grounds raised in those representations be treated as arguments for defending the present writ petition.

10. Since this Court in WPS No. 4425/2020 dealing with the issue has categorically held that the scope of writ jurisdiction in the matter like this is too minimal and the law, even if it is considered to be an order of transfer, is also by now well settled by the Hon'ble Supreme Court as also by the various High Courts that transfer is also an incident to service and the same may be interfered with only in the event if the order of transfer is passed contrary to the service conditions. So far as there being an immunity from transfer or the order being passed with malafide, it is not a case in the present factual matrix that the service

is not transferable or interchangeable. It is also not the ground of the petitioner that the order has been passed with malafide.

11. In view of above, this Court following the view taken by this Court in WPS No. 4425/2020 decided on 26.11.2020, is inclined to dismiss the present writ petition also.

12. Writ Petition accordingly stands dismissed.

/sharad/

Sd/-
(P. Sam Koshy)
JUDGE