

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 5107 of 2020**

Mohan Lal Sahni S/o Late Somaru Ram Sahni Aged About 45 Years
Presently Working As Vanpal (Forestor), Incharge Ranger At Dahakwada
Range, Koleng, Bastar Forest Division, Bastar, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through- The Secretary, Forest Department, Mantralaya, Mahanadi Bhawan, Atal Nagar, Nava Raipur, District- Raipur, Chhattisgarh
2. Chief Conservator Of Forest, Atal Nagar, Nava Raipur, Chhattisgarh
3. Conservator Of Forest Jagdalpur, District- Bastar, Chhattisgarh
4. Divisional Forest Officer, Jagdalpur, District- Bastar, Chhattisgarh
5. Ranger, Koleng, Bastar Forest Division, Bastar, Chhattisgarh
6. Santosh Kumar Kachhi, Forestor, Kandiyapal Range, Bastar Forest Division, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. C. Jayant K. Rao, Advocate
For State	:	Mr. Rahul Jha, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy
Order on Board

07/12/2020

1. The challenge in the present writ petition is to the order Annexure P/1 dated 31.10.2020.
2. The present is the second round of litigation. The earlier round of litigation was WPS No. 3946/2020. The same was disposed of on 07.10.2020, and while disposing of the said writ petition this Court directed the respondent No.3 to decide the representation that the petitioner has filed. Meanwhile, there was an order of status-quo, so far as the posting of petitioner is concerned.

3. Subsequently, respondent No.3-the Conservator of Forest has now passed the impugned order dated 31.10.2020. Vide the said order of the Conservator of Forest, the petitioner's place of posting as ordered vide order dated 31.07.2020 under challenge in the earlier round of litigation was modified to the extent that considering the representation of the petitioner he has been sent to Kolawal under Karpawand Range. The grievance of the petitioner now is that vide modification of the earlier order, the petitioner has been sent to a far more place than the earlier place of posting. The further contention of the petitioner is that the impugned order as also the earlier order dated 31.07.2020 have been issued during the ban period, when the State Government has specifically taken a policy decision not to transfer anybody during the pandemic season. The further contention of the petitioner is that the said impugned order has been passed only to accommodate the respondent No.6 so as to provide him the charge of the said place, where the petitioner was working at Dahakwada circle.
4. Having heard the contentions put forth on either side and on perusal of record, what needs to be appreciated is the scope of interference permissible in exercise of the writ jurisdiction under Article 226 of the Constitution of India on Transfer matters. The law in this regard has been well settled by a catena of decisions by the Hon'ble Supreme Court as also by this Court wherein it has always been reiterated by the Courts that the transfer is an incident to service, unless the order of transfer is contrary to the service Rules or there is an allegation of specific bias and malafides , the same cannot be interfered with as a matter of routine.

5. In the instant case, except for the allegation of the order being passed to accommodate the respondent No.6 there does not seem to be any strong case or malafides. Neither is the case of the petitioner, that the post on which the petitioner works is a non-transferable post. It is also not the case of the petitioner that the order of transfer has been issued in violation of the service Rules governing the field. As regards the transfer policy of the State Government is concerned, the judicial pronouncement of the Hon'ble Supreme Court as also the High Court have been repeatedly held that merely guidelines but would not give an indefeasible right in favour of the petitioner so far as having a force of law.
6. For the aforesaid reasons, this Court does not find any strong case made out by the petitioner calling for an interference by this Court in exercise of its writ jurisdiction to the order under challenge.
7. However, the right of the petitioner would still stand reserved to approach the authorities concerned seeking for a request for being posted at a nearby place where there is clear vacant post available for accommodating the petitioner. On such representation being made, the authorities are expected to take a decision on the same in accordance with law at the earliest.
8. With the aforesaid observations, the present writ petition stands disposed of. .

Sd/-
(P. Sam Koshy)
Judge