

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 5439 of 2020

1. Jagwendra Vaishnav S/o Shri Praduman Das Vaishnav Aged About 39 Years R/o Village And Post- Ashra, Tahsil and Police Station- Dongargaon, District- Rajnandgaon (C.G.).

---Petitioner(s)

Versus

1. State of Chhattisgarh Through Its Secretary, Department Of Home/police, Mahanadi Bhawan, Mantralaya, Police Station And Post- Rakhi, Atal Nagar, New Raipur, District- Raipur, Chhattisgarh
2. Chairman Police Establishment Board/ Director General Of Police (D.G.P.), Police Headquarters (PHQ), Police Station And Post- Rakhi, Atal Nagar, New Raipur, District- Raipur, Chhattisgarh
3. Members Police Establishment Board, Police Headquarters (Phq), Police Station And Post- Rakhi, Atal Nagar, New Raipur, District- Raipur, Chhattisgarh.
4. Special Director General Chhattisgarh Armed Force (CAF), Police Headquarters (PHQ), Police Station And Post- Rakhi, Atal Nagar, New Raipur, District- Raipur (CG), District : Raipur, Chhattisgarh
5. Commandant 13th Battalion, Chhattisgarh Armed Force (Caf), Bango, Distt, Korba, Chhattisgarh.

---Respondents

For Petitioner	:	Shri Abhishek Pandey, Advocate.
For State	:	Shri Jitendra Pali, Dy. AG.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

17.12.2020

1. Challenge in the present writ petition is to the order of transfer dated 15.09.2020 whereby the petitioner has been transfered from 13th Battalion, CAF Bango to 21st Battalion, CAF Balod.
2. The impugned order has been made stating that the order of transfer has been made at the request of the petitioner who has made representation of having certain personal and family reasons seeking for transfer.
3. The counsel for the petitioner at this juncture submits that at no point of time the petitioner has ever made any request seeking for transfer, yet the order of transfer shows that it has been made on his request, thereby, he would not be entitled for any transfer allowance and other benefits also.

Another ground which the petitioner has raised in the petition is that the order of transfer has been issued by an authority who otherwise is not competent to pass the said order as according to provisions of Section 22 of the Chhattisgarh Police Act, 2007 (in short, the Act, 2007), transfer could have been made only by the Board constituted by the State Government in this regard.

4. So far as second ground that the petitioner has raised, this court is of the opinion that since this court has already in the past in WPS No.7929 of 2018 have taken a decision on 03.12.2018 quashing the order of transfer under similar circumstances on the ground of it being violative of the provisions of the Act, 2007, there need not be further adjudication on the said issue. The judgment in the said writ petition under similar circumstances squarely covers the present case also. In addition, this court would also like to interfere with the impugned order on the first ground when the petitioner specifically submits that he had at no point of time made any request for transfer.
5. Given the aforesaid grounds, the impugned order dated 15.09.2020 is not sustainable. The same deserves to be and is hereby set aside/quashed, leaving it open for the State authorities to pass an appropriate order of transfer, if at all if administrative exigency so arises in accordance to provisions of law governing the field, keeping in view the order passed by this court in WPS No.7929 of 2018, decided on 03.12.2018.
6. The writ petition accordingly stands allowed and disposed of.

Sd/-
(P. Sam Koshy)
Judge