

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 1147 of 2021**

Umesh Kumar Dhalendra (B. E. Civil) S/o Late Shri Ramnath Thakur Aged About 55 Years Superintending Engineer SUDA, State Of Chhattisgarh R/o F-28, Block No. 31/205, Sector-27, Atal Nagar New Raipur Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh, Through Secretary, Nagariya Prasasan Avam Vikas, Mahanadi Bhawan, Mantralaya, Atal Nagar Nawa Raipur Chhattisgarh.
2. Director, Nagariya Prasasan Avam Vikas Indrawati Bhawan, Atal Nagar Nawa Raipur Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Ram Niwas Gupta, Advocate
For State	:	Mr. Sudeep Verma, Deputy G.A.

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

26/02/2021

1. The present writ petition has been preferred being aggrieved of two orders, one dated 23.01.2021 (Annexure P/1) and the second being 08.02.2021 (Annexure P/2).
2. Vide the first order the petitioner was said to have been transferred from Raipur to the Municipal Corporation, Bilaspur and vide the second order the petitioner has been ordered to be posted at the Municipal Corporation, Bhilai.
3. The challenge to the transfer order is on the ground that the impugned order is in utter violation to the transfer policy of the government to the extent that their order does not reflect to have been routed through the coordination committee as is required. Moreover, the impugned order does not reflect it to be an order of

transfer, but it also appears to be an order of posting or an order of attachment. Thirdly, the contention of the petitioner is that the petitioner is being shifted from the present place and is being replaced by a person much junior, which again is in contravention to the transfer policy.

4. On a query being put to the counsel for the petitioner, he admits that the petitioner has been at the present place of posting for about 2 years time now. Moreover, the petitioner was only working as an Incharge Chief Engineer and the substantive post which the petitioner was holding was that of only Superintending Engineer. The post to which the petitioner was holding is a senior level post in the Department. Perusal of the impugned order would show that the impugned order has been made particularly on administrative exigency and it is not just confined to the petitioner. The impugned order is in respect of about 76-80 officers in the Department, who have all been shifted from one place to another.
5. As regards to the scope of interference by this Court in a transfer matter, the law is by now is well settled by a catena of decisions both by the Hon'ble Supreme Court as also by the High Courts that transfer being an incident of service, it is exclusively within the domain of the respondents-the employer to decide the place of posting, the tenure of post and also to decide which officer need to be posted at which place considering the nature of work available.
6. In the instant case, since the order dated 23.01.2021 was not complied with and before compliance itself the respondents have modified the place of the posting of the petitioner and he has been

accommodated at a nearby place closure to his present place of posting. The distance between the two place also forces this Court not to interfere with the impugned order in any manner. However, in case if the petitioner has any personal inconveniences or grievances, the petitioner would be at liberty to make a representation to the employer i.e. the respondents, which according to the petitioner, he has already made on 22.02.2020 and 24.02.2020.

7. Since the petitioner has already approached the authorities by way of a representation, it is expected that the respondent authorities shall consider and decide the same in accordance with Rules, regulations and policies governing the field at the earliest preferably within a period of 60 days from the date of receipt of the copy of this order and also considering the contents of the representation which the petitioner has made.
8. With the aforesaid observations, the present writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

Ved