

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 2379 of 2021**

Tarun Kumar Thakur S/o Late Shri G. P. Thakur, Aged About 40 Years
Occupation Superintending Engineer (Circle) Chhattisgarh State Power
Distribution Company Limited Rajnandgaon, District Rajnandgaon
Chhattisgarh

---- **Petitioner****Versus**

1. General Manager (HR) Chhattisgarh State Power Holding Company Limited, Raipur, Chhattisgarh
2. Executive Director (O & M) / (EITC) / (Rjn-R), Chhattisgarh State Power Holding Company Limited Daganiya, District Raipur Chhattisgarh
3. Managing Director (H.R. Holding) Chhattisgarh State Power Holding Company Limited Daganiya, District Raipur, Chhattisgarh
4. Salil Kumar Khare, Occupation Superintending Engineer (Circle), Chhattisgarh State Power Distribution Company Limited Baloda Bazar District Baloda Bazar, Chhattisgarh

---- **Respondents**

For Petitioner	:	Mr. Prakash Tiwari, Advocate
For Respondents	:	Mr. Abhishek Sinha, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****07.05.2021**

1. The grievance of the petitioner in the present writ petition seems to be the order of transfer dated 01.04.2021 (Annexure P-1) which subsequently stands modified on 29.04.2021.

2. Vide order dated 01.04.2021, the petitioner who is working as a Superintending Engineer was transferred from the present place of posting i.e. Rajnandgaon to Baloda Bazar. Subsequently vide order dated 29.04.2021 the place of posting of the petitioner was modified and he has been ordered to be transferred to Durg instead of Baloda Bazar. The order dated 29.04.2021 has been brought on record by way of a covering memo by the petitioner.

3. The primary contention of the learned counsel for the petitioner is that the petitioner has been subjected to transfer around 7 times in the past about 6 years time and at the present place of posting the petitioner has been transferred before a normal tenure of the petitioner having got exhausted. Thus, this amounts to frequent transfer. Further contention of the petitioner is that the impugned order has been passed only to accommodate respondent no.4 and therefore it is with malafide. Counsel for the petitioner also contended that when the State was reeling under the Covid-19 pandemic, there was no administrative exigency as such which warranted a transfer order of the petitioner to be issued and the petitioner is being asked to join at the transferred place during the lockdown period.

4. Learned counsel appearing for the respondents on the other hand submits that initially the order of transfer was made on the administrative exigency on 01.04.2021. However, immediately thereafter, the petitioner had made a representation to the authorities on 03.04.2021 (Annexure P-7). After due consideration of the representation the department has modified the order dated 01.04.2021 and accommodated the petitioner at a nearby place i.e. the adjoining district Durg. Moreover, Durg is the place where the old age mother of the petitioner resides which was the contention of the

petitioner raised in his representation. Thus, the impugned order dated 01.04.2021 and the subsequent order which stands modified on 29.04.2021 do not warrant interference.

5. Having heard the contentions put forth on either side and on perusal of records, admittedly the petitioner has been working at the present place of posting i.e. Rajnandgaon since 15.11.2019 and as such he has already put in about 1 ½ years of service. What needs to be appreciated at this juncture is that the petitioner is a senior level Class-I Officer under the respondents and the positing of Senior Level Officers invariably on administrative reasons and on administrative exigency are shifted from one place to another taking into consideration the nature of work and also the caliber of the officers etc. Moreover, the nature of service rendered by the petitioner is one which falls under the emergency service and the transfer of a senior Class-I cadre officer cannot be compared with the usual transfer of Class-III & IV ministerial cadre posts. Moreover, considering the contention of the petitioner, the respondents themselves have sympathetically considered the representation of the petitioner and have accommodated him by modifying the original order dated 01.04.2021 and have posted him at a nearby location. There is no dispute so far as the fact that the petitioner's service is a transferable service. There is also no dispute of the fact that vide impugned order of transfer, the service condition of the petitioner is not going to get adversely affected in any manner.

6. As regards the malafide of the transfer order being made to accommodate respondent no.4, the said ground does not exist any further for the reason that the petitioner's order of transfer dated 01.04.2021 since stands modified and he has been brought to the nearest place available and which is the adjoining district Durg. Another

fact which needs consideration is that the impugned order of transfer Annexure P-1 was not an order of transfer which was passed in isolation confining only to the petitioner but it was issued much before the lockdown period and the same consisted of 9 officers of the rank of Superintending Engineer which also further forces this Court to draw an inference that the order of transfer has been made on the administrative exigency.

7. In view of the same, this Court does not find any strong case made out warranting interference with the order dated 01.04.2021 as also the order dated 29.04.2021.

8. However, in case, because of lockdown period, the petitioner has any inconvenience in joining at the transferred place i.e. Durg, he may approach the authorities seeking for further time so that he can join immediately after the lockdown period, subject to, of course, the respondents provide proper arrangement on the administrative side enabling him to join at the transferred place during this lockdown period.

9. With the aforesaid observation, the writ petition stands rejected.

**Sd/-
P. Sam Koshy
Judge**