

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 2773 of 2021

Jitendra Kumar Sharma S/o Late Shrawan Kumar Sharma, Aged About 52 Years R/o. Plot No. 118/01, Street No. 11, Shakuntala, Mai Trikunj, Risali, Bhilai, District Durg Chhattisgarh

---- Petitioner

Versus

1. Senior Divisional Manager Life Insurance Corporation Of India, Divisional Office, Jeevan Prakash, Jeevan Beema Marg, P.B. No.10, Pandari, Raipur, District Raipur Chhattisgarh
2. Branch Manager, Life Insurance Corporation Of India, Branch Saraipali, District Mahasamund Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Shikhar Sharma, Advocate
For Respondents	:	None

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

22.06.2021

1. Aggrieved by the order dated 15.12.2020(Annexure P-1) the present writ petition has been filed. Vide the impugned order, the respondents have canceled the earlier order of transfer dated 10.06.2020 to the extent applicable upon the employees who could not comply with the order dated 10.06.2020.
2. Facts of the case in brief is that the petitioner is working under the respondents as Higher grade Assistant and is posted at the office of the respondents at Branch Saraipali, District Mahasamund. The petitioner is native of Bhilai District Durg. The petitioner was trying and hoping for transfer at his home town since long. The petitioner vide order dated 10.06.2020 finally got transferred from the Branch of the respondents at

Saraipali to the Branch CAB-Bhilai, District Durg. However, in spite of best efforts being made, the petitioner was not relieved from the office at Saraipali and he continued to work there. The petitioner made various request letters for being to be relived but his efforts went futile.

3. The petitioner subsequently preferred a writ petition before this High Court i.e. WPS 3348/2020, the matter was pending when the respondents issued an order Annexure P-1 dated 15.12.2020. When this fact came to the notice of the petitioner, he immediately withdrew the writ petition on 12.02.2021 holding the matter to have become infructuous. While withdrawing the said writ petition the petitioner did not avail any liberty to challenge the subsequent development nor did he try to amend the writ petition for challenging the order dated 15.12.2020. Now after more than four months time, the present writ petition has been filed challenging the impugned order Annexure P-1.
4. Contention of the petitioner is that when the original order dated 10.06.2020 was passed, there were a large number of other employees who were also transferred. That in the case of many of the employees the respondents have relieved the employees and as they stood relieved the order stood complied so far as those employees are concerned. However, in respect of the petitioner and a few similar persons, the department deliberately did not relieve them from the place of posting and as a result the petitioner by virtue of the impugned order has now got stuck at Saraipali. According to the petitioner the entire action has been done to frustrate the earlier writ petition that he has filed i.e. WPS 3348/2020.
5. Counsel for the petitioner submits that similarly placed persons had before the impugned order was passed approached this Court vide WPS No.3705/2020 and where this Court had directed the respondents to implement the order dated 10.06.2020 at the earliest. The said order

subsequently has been complied by the department and petitioner in the said writ petition i.e. Smt. Shilpa Lingayat was relieved and she joined at the transferred place but the petitioner was still left out from being relieved. All these according to the petitioner are malafides on the part of the respondents and prays for quashment of the impugned order.

6. On perusal of the order dated 10.06.2020 it clearly reflects that the same was in connection with a large number of employees. It was not confined to the case of the petitioner and as such the allegation of malafide cannot be inferred nor can it be construed.
7. As regards, the order of transfer it is well settled position of law that it is purely within the prerogative and powers of the employer to decide when, where and for what duration should a person be posted. Likewise, it is also well within the prerogative of the employer to take appropriate action on the administrative side they may face in the compliance of the order. Like in the instant case an order of transfer which the respondents were finding it difficult to comply for administrative reasons in respect of a few of the employees posted at a particular place of posting. The employer has exercised this power which is well within there administrative domain and for which there is hardly any scope of judicial review invoking the Writ jurisdiction by this Court under Article 226. Moreover, an authority who has the power to transfer on administrative grounds also has a power to cancel, withdraw or modify the same.
8. From the plain reading of the contents of the writ petition, there is hardly any cogent material to establish either arbitrariness or malafides or even it to be a vindictive approach of the respondents. Neither is the case of the petitioner that the order is without jurisdiction, without competency and without authority or power, neither is the case of the petitioner that impugned order is contrary to rules.

9. In the absence of all these, there is no scope of interference for this Court upon a administrative decision taken purely in the administrative exigency. For the aforesaid reasons, the writ petition sans merits, deserves to be and is accordingly rejected.

Sd/-
(P. Sam Koshy)
Judge

Rohit