

IN THE HON'BLE HIGH COURT OF CHHATTISGARH AT BILASPUR

W.P.(S) NO. 4148 / 2011

PETITIONER

:

R.P.Mishra

S/o Shri S.K.Mishra, 57 Yrs,

Project Ranger, Antagarh Forest

Division, C.G.Rajya Van Vikas

Nigam Ltd., Bhanupratappur,

Distt. Kanker-(C.G.)

P.R. No. 44361/2011
Presented by Shri. Keshav Dewangan
dated 27/7/2011

VERSUS

RESPONDENTS

:

1)

C.G. Rajya Van Vikas Nigam Ltd.,

Through : Managing Director,

Lokash Plaza, Shanker Nagar Road,

Raipur (C.G.).

2)

Regional Manager,

C.G.Rajya Van Vikas Nigam Ltd.,

Raipur-(C.G.)

WRIT PETITION U/A 226 OF THE CONSTITUTION OF INDIA

HIGH COURT OF CHHATTISGARH : BILASPUR

WRIT PETITION (S) NO.4148 OF 2011

PETITIONER

R.P. Mishra

Versus

RESPONDENTS

C.G. Rajya Van Vikas Nigam Ltd. &
Another

(Writ Petition under Article 226 of the Constitution of India)

Single Bench : Hon'ble Shri Satish K. Agnihotri, J.

Present :- Shri Prafull Bharat, Advocate for the petitioner.
Shri Arun Sao, Govt. Advocate for the State.

ORDER (ORAL)

(Passed on this 29th day of July, 2011)

1. Heard learned counsel for the parties.
2. By this petition, the petitioner seeks to challenge the legality and validity of the order dated 15-7-2011 (Annexure – P/1) passed by the respondent No.1 whereby the petitioner has been transferred from Antagarh Project Division, Bhanupratappur to Bhadwahi Plantation, Sarguja, Ambikapur.
3. Learned counsel appearing for the petitioner submits that the impugned order has been passed by the respondent authorities without having any administrative exigency and on account of transfer of the petitioner, the petitioner and his family members shall suffer irreparable loss, as the children of the petitioner are prosecuting their studies at Bhanupratappur. Even in place of the petitioner, no one has been posted and the impugned order has been passed with *mala fide* intention only to harass the petitioner.
4. Mere statement of *mala fide* does not hold that there was a *mala fide* exercise of power. The petitioner has to establish by cogent reasons on production of documents, pertaining to related activities to show that *mala fide* was exercised in passing the impugned transfer order. The petitioner has failed to prove the *mala fide* and lack of competence of the officer passing the impugned transfer order. There

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is also no allegation of violation of statutory provisions of law. Thus, the transfer order is just and proper.

5. Be that as it may, it is a trite law that transfer/posting is an incidence of service. The Court should not interfere with the transfer/posting order unless there is malice, infringement of statutory rules and regulations. In the case on hand, the petitioner has failed to establish any of the aforestated grounds. The employee may be posted anywhere at the instance of the employer in public interest and administrative exigency. Further, it is for the Government to post another person if any vacancy arises on account of transfer/posting of an employee. Thus, the impugned order warrants no interference. (See *E.P. Royappa v. State of Tamil Nadu and another*¹, *Shilpi Bose (Mrs.) and others v. State of Bihar & another*², *State of M.P. and another v. S.S.Kourv and others*³, *Mohd. Masood Ahmad v. State of U.P. & Others*⁴ *Chief Commercial Manager, South Central Railway, Secunderabad & Others v. G. Ratnam & Others*⁵ and *Airports Authority of India v. Rajeev Ratan Pandey & Others*⁶).
6. Applying the well-settled principles of law to the facts of the case on hand and for the reasons mentioned hereinabove; there is no merit in the case.
7. For the reasons as aforestated, the petition, being bereft of merit, is liable to be and is hereby dismissed at the motion stage itself.

Gowri

**Sd/-
Satish K. Agnihotri
Judge**

¹ 1974 (4) SCC 3

² (1991) Supp 2 SCC 659

³ (1995) 3 SCC 270

⁴ (2007) 8 SCC 150

⁵ (2007) 8 SCC 212

⁶ (2009) 8 SCC 337