

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 395 of 2015

1. Amarchand Pahare S/o Ramavtar Pahare, Aged About 46 years R/o Green Park Colony, Police Station Civil Lines, Civil & Revenue District Bilaspur, (C.G.)

---- Petitioner

Versus

1. State Of Chhattisgarh, Through: Secretary, Technical Education Man Power Planning Science & Technology, Mahanadi Bhawan, Mantralaya, Capital Complex, Naya Raipur, District Raipur, (C.G.)
2. Coordinator/ Secretary Transfer Committee, General Administration Department, Mahanadi Bhawan, Mantralaya, Capital Complex, Naya Raipur, District Raipur, (C.G.)
3. Commissioner-Cum-Director Employment & Training, Indrawati Bhawan, 4th Block, 1st Floor, Naya Raipur, District Raipur, (C.G.)
4. A.O. Lari Deputy Director, District Employment & Self Employment Guidance Centre (Enforcement Cell), Jagdalpur, Police Station & Post Jagdalpur, District Bastar, (C.G.)
5. The Joint Director Employment & Training Directorate, Chhattisgarh Raipur, District Raipur, **(C.G.)**

---- Respondents

And

WPS No. 677 Of 2015

1. Anand Kumar S/o Late Shri Bhisani Aged About 54 years R/o Avani Vihar Dal Dal Seoni, P.S. Mowa, Raipur, District Raipur (C.G.)

---- Petitioner

Vs

1. State Of Chhattisgarh, Through The Secretary, Technical Education, Manpower Planning, Science And Technology Department, Mantralaya, Mahanadi Bhawan, Naya Raipur (C.G.)

2. Director, Directorate Of Employment And Training, Women Polytechnic Premises, Byron Bazaar, Raipur Dist. Raipur (C.G.)
3. High Power Transfer Committee, Through Its Convener, General Administration, Department, Mahanadi Bhawan, Naya Raipur, District Raipur (C.G)
4. Joint Director Employment And Training, Byron Bazaar, Raipur, District Raipur (C.G.)
5. Shri S.P. Tripathi Deputy Director, District Employment And Self - Employment Guidance Center, Ambikapur District Surguja (C.G.)

---- Respondents

For Petitioners	Shri Manoj Paranjape & Shri N.K. Sharma, Adv.
For Respondent/State	Shri P.K. Bhaduri, Govt. Advocate
For Respondent No.4 in WP (S) No.395/2015	Shri Saleem Kazi, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board By

30/04/2015

Heard learned counsel for the parties.

1. Petitioners are working as Deputy Directors in the Department of Technical Education, Man Power Management, Science and Technology, and are posted in the District Employment & Self Employment Guidance Center at Bilaspur and Raipur, respectively.
2. By order dated 10-7-2014 the petitioners were transferred to Jagdalpur & Ambikapur, respectively. Their earlier writ petitions bearing WP (S) Nos.4533 & 3779 of 2014 were disposed of by this Court permitting them to move representations in accordance with the

transfer policy.

3. The representations filed by the petitioners have been dismissed by a common order passed on 31-1-2015 which is under challenge in both the writ petitions.
4. It has been argued that the committee of Senior Secretaries having recommended in favour of the petitioners after finding that paragraph 2.12 of the transfer policy has been violated, the State Government should have allowed the representations of the petitioners. They would submit that once violation of transfer policy is established, this Court should intervene and quash the transfer order.
5. On the other hand learned counsel appearing for the State and learned counsel appearing for the respondent No.4 in WP (S) No.395/2015 would submit that the scope of interference in a petition challenging transfer of an employee would remain the same and the law is well settled that the transfer policy being mere guideline, the same is not enforceable.
6. The committee of Senior Secretaries have found violation of para 2.12 of the transfer policy on the ground that for the subject cadre, the transfer has exceeded the limit of 15%. If a transfer order is quashed on the ground that the State Government has exceeded the limit of not transferring more than 15% of employees or officers in a cadre, then the entire transfer order of all the employees or officers will be rendered unworkable because it would be difficult as to whose transfer order is to be set-aside. In other words, it would be difficult to

chose, as to whether the persons at the bottom in the list who exceed 15% limit or the persons who have remained for longer period in a particular station would be affected by such method.

7. In the opinion of this Court, violation of transfer policy on the above aspect will not furnish a ground akin to violation of any statutory provision effecting the service conditions of the petitioners or amounting to *mala fide* exercise of power. It is mentioned in the impugned order that the petitioner Amarchand Pahara is posted at Bilapur since September, 2008 and the petitioner Anand Kumar is posted at Raipur since August, 2010. Thus, both the officers have completed more than 6 years and 4 years of service at a particular station.
8. 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. 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. (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

1 1974 (4) SCC 3

2 (1991) Supp 2 SCC 659

3 (1995) 3 SCC 270

4 (2007) 8 SCC 150

*Manager, South Central Railway, Secunderabad & Others v. G. Ratnam & Others*⁵ and *Airports Authority of India v. Rajeev Ratan Pandey & Others*⁶).

9. In view of the above settled legal position, this Court cannot sit as an appellate Court over the order passed by the State Government dismissing the representations of the petitioners.
10. As a sequel, both the writ petitions, *sans* merit, are liable to be and are hereby dismissed. No order as to costs.

J u d g e

Gowri

⁵ (2007) 8 SCC 212

⁶ (2009) 8 SCC 337