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HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 6720 of 2018

Donger Singh Thakur S/o Shri Nohar Singh Thakur Aged About 60 Years Occupation Service, Presently Posted As Senior Cooperative Inspector, Office Of The Joint Registrar, Cooperative Society Durg District Durg Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Ministry Of Cooperative Secretariat, Mahanadi Bhawan, Naya Raipur District Raipur Chhattisgarh

2. The Registrar Cooperative Societies, Indravati Bhawan, Atal Nagar, Raipur, District Raipur Chhattisgarh

----Respondents

For Petitioner	:	Mr. B.P. Sharma, Advocate
For State	:	Mr. Chandresh Shrivastava, Panel Lawyer

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

09/10/2018

1. The present writ petition has been filed assailing the order of transfer dated 29.09.2018, whereby the services of the petitioner has been transferred from district Durg to district Surajpur.

2. The facts of the case leading to the filing of the present writ petition is that the petitioner was working as a Senior Cooperative Inspector at Durg for quite sometimes. The petitioner has, vide the impugned order Annexure P/1, been transferred to the office of the Deputy Registrar, Cooperative Societies, Surajpur. It is this order which is under challenge in the present writ petition.

3. The challenge is firstly on the ground that the order of transfer is a punitive order, secondly, the contention of the petitioner that the order has been made at the hands of vested interest and that the petitioner has been victimized for his sincere and honest efforts being made in the

course of inquiry into certain allegations, which was ordered to be inquired into by the petitioner at the instance of higher authorities i.e. the Joint Registrar, Cooperative Societies.

4. It is also the contention of the petitioner that the order of transfer appears to be bad in law for the reason that by the impugned order only single person has been transferred and which by itself would show that the same has been with malafide intention. It was further the contention of the petitioner that there was no administrative exigency whatsoever on the part of the respondents in the issuance of the impugned order.

5. To canvas the same, the counsel for the petitioner referred to various correspondences and the documents supported with the writ petition in respect of certain allegations and the inquires which were conducted including the inquiry which has been made by the petitioner and the averments of certain alleged complaints which has been made by some interested persons against the petitioner. In support of the contentions, which have been canvas by the petitioner, he refers to judgment of the Hon'ble Supreme Court in the case of *"Somesh Tiwari v. Union of India & Others"* 2009 (2) SCC 592.

6. From the perusal of the record, what reflects is that the petitioner appears to have been working at the present place of posting i.e. at Durg for quite sometimes and then perusal of the impugned order Annexure P/1 would reveal that the same has been made on administrative ground. What further has to be seen is that it is not a case where the order has been shown to have been passed at the instance of some complaints which have been lodged against the petitioner by some vested interests. Except for an averment made by

the petitioner, there does not appear to be any strong material brought on record, with which the same could be presumed.

7. Undisputedly the service of the petitioner is a transferable service and it is settled position of law that the transfer is an incident to services. The services of an transferable employee can be transferred at the behest of the employer. Moreover, it is not a case where the petitioner has been subjected to some frequent transfer, nor can the order of transfer which has been made on the administrative exigency be termed to be a punitive transfer unless it is reflected of having being made on the complaints received by the authorities. Moreover the documents, which have been enclosed along with the writ petition, particularly the inquiry report, etc. which have been submitted by the petitioner to the department are documents, which have been submitted long ago, and not of the recent past and the present order has been passed months after those inquiry report has been submitted by the petitioner.

8. The issue of transfer and posting of an employee, whose services is transferable, has been considered time and again by the Apex Court and the various High Courts of this country and by now which stands settled by a catena of decisions, that it is entirely upon the competent authority to decide when, where and at what point of time a public servant has to be transferred. It has also been repeatedly held by the Courts that transfer is not only an incident to service, but is also an essential conditions of service.

9. The transferable employee cannot claim as a matter of right nor does he have a vested right to work at a particular place and the Courts cannot interfere with a transfer and posting made on administrative

grounds or even if it is made in public interest. Transferring of an employee does not affect any of his legal rights nor does it affect the conditions of service in any manner and so far as the employee is concerned, he can have no choice in the matter and many a times it is done for the efficiency in the public administration.

10. The aforesaid view of this Court stands fortified from the catena of decisions on the subject starting from *"Shilpi Bose v. State of Bihar", "Union of India v. S.L. Abbas", "State of U.P. v. Siyaram", "Union of India v. Janardan Devanath", "State Bank of India v. Anjan Sanyal" and "State of U.P. v. Gobardhan Lal"*.

11. Given the aforesaid facts and circumstances of the case, this Court does not find any strong case made out by the petitioner calling for an interference with the order of transfer, which has been made on the administrative ground. The writ petition therefore fails that accordingly dismissed.

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Sd/-
(P. Sam Koshy)
Judge

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