

**(2008) 12 JH CK 0032**

**Jharkhand High Court**

**Case No:** None

Yugeshwar Mochi

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

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**Date of Decision:** Dec. 12, 2008

**Citation:** (2009) 1 JCR 521

**Hon'ble Judges:** Dabbiru Ganeshrao Patnaik, J

**Bench:** Single Bench

**Final Decision:** Dismissed

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### **Judgement**

@JUDGMENTTAG-ORDER

D.G.R. Patnaik, J.

Challenge in this writ application is against the Notification No. 2824 dated 29.7.2008 (Annexure 2), issued under the signature of the Deputy Secretary in the Water Resources Department, Jharkhand whereby the petitioner has been transferred and posted as the Chief Engineer (Current Charges) from Jharkhand Police Housing Corporation Ltd., Ranchi to the Statistics Financial and Programme Implementation Department as the Chief Engineer (Current Charges).

2. The petitioner was initially appointed in the Irrigation Department of the State of Bihar in December, 1972 as a Junior Engineer. He was finally promoted to the post of the Superintending Engineer and on reorganisation of the State, he was given the Jharkhand cadre where he was posted in the Irrigation Circle in Palamau at Daltonganj.

3. By the recommendation of the Establishment Committee and vide a Notification No. 1336 dated 30.3.2008, his services were placed in the Jharkhand Police Housing Corporation Ltd., Ranchi as Chief Engineer (Current Charges). Accordingly, he submitted his joining on the post on 31.3.2008.

However, by the impugned Notification, he has been transferred as the Chief Engineer in the Statistics, Financial and Programme Implementation Department and in his place the respondent No. 4 has been directed to Join as the Chief Engineer (Current Charges) in the Jharkhand Police Housing Corporation Ltd., Ranchi.

The petitioner filed a representation before the respondent No. 2 requesting for recalling his transfer on the ground that he had only a few months to retire and further, that he had very recently on 31.1.2008 joined his present place of posting.

4. Assailing the impugned Notification of the petitioner's transfer, Mr. A.K. Sinha, learned Counsel for the petitioner submits that the impugned order is bad and is against the provisions of the Rules of Natural Justice, since it was passed without giving any prior opportunity to the petitioner and without there being any departmental or criminal proceedings pending against him. Referring to the statements contained in the counter affidavit of the respondents, learned Counsel explains that the reason for the petitioner's transfer is an alleged complaint received against him in his present Department. If this was so, then the petitioner ought to have been given an opportunity to meet and explain the allegation raised in the purported complaint but no such opportunity was given to him. It is further submitted that even otherwise, the Rules relating to transfer, do prohibit the transfer of a Government servant within six months prior to the date of his retirement.

5. Counter affidavit has been filed on behalf of the respondents-State. Denying and disputing the entire claim of the petitioner, the stand taken by the respondents is that the services of the petitioner was placed with the Jharkhand Police Housing Corporation Ltd., Ranchi by his Parent Department i.e. the Water Resources Department, whereafter he was posted as the Chief Engineer (Current Charges) in the Jharkhand Police Housing Corporation Ltd., Ranchi. However, vide letter No. 790 dated 24.6.2008, received from the Corporation requesting the Department to take back the petitioner's services, the Departmental Establishment Committee at its meeting dated 28th June, 2008, had recommended for repatriation of the petitioner and for placing his services with the Institutional Finance and Programme Implementation Department, Jharkhand, Ranchi. On the recommendation being accepted by the State Government, the impugned Notification was issued, intimating the petitioner of his transfer. The further stand taken by the respondents is that the petitioner's transfer has been done in the interest of the Government and in the exigencies of the Government business. Furthermore, the Headquarters of the petitioner has not changed and as such, the petitioner cannot claim to have suffered any detriment by the impugned order of his transfer.

6. From the rival submissions of the learned Counsel for the parties, the facts which emerge are that the petitioner, who was initially appointed in the Water Resources Department of the State Government, his services were placed by the Department with the State Government for his posting in the Jharkhand Police Housing

Corporation Ltd., Ranchi. Subsequently, the Jharkhand Police Housing Corporation Ltd. expressed its desire to surrender the petitioner's services. In such a situation, the issue of the petitioner's transfer from his present place of posting arose and his case was referred to the Departmental Establishment Committee. The Committee recommended for the petitioner's transfer to any appropriate Department and on such recommendations being made, the State Government had approved the recommendation and placed the petitioner's services in the Institutional Finance and Programme Implementation Department, Jharkhand, Ranchi. It further appears that by the same Notification, the respondent No. 4 was transferred to take charge of the Office of the Chief Engineer (Current charges) in the Jharkhand Police Housing Corporation Ltd. and the respondent No. 4 has also joined the post and as indicated, the Pay-slip of the respondent No. 4 has also been issued by the Office of the Accountant General to him at his present place of posting. It further appears from the counter affidavit of the respondents that upon the Notification of the petitioner's transfer being issued, the petitioner was relieved from his post in the Police Housing Corporation. The petitioner has questioned the order of transfer on the ground that since some complaint was received against him, he could not have been transferred abruptly without being afforded an opportunity to submit his stand against the complaint. This issue as raised by the petitioner is apparently misconceived. The impugned order of transfer does not indicate that it was passed by way of any punishment against the petitioner or that stigma is attached to the petitioner. The petitioner's transfer has apparently been made on the recommendation of the Departmental Establishment Committee as required under the Government's Executive Rules of Business and his services are now being placed with another Department of the State Government. Incidentally, the Headquarters of the petitioner has been retained at Ranchi and in this view of the matter, it cannot be said that the petitioner's transfer has occasioned any detriment to him or that the respondents have sought to harass him in any manner.

7. In the facts and circumstances. I do not find any merit in this writ application. This writ application, accordingly, dismissed.