

Yugeshwar Mochi Vs State of Jharkhand and Others

Court: Jharkhand High Court

Date of Decision: Dec. 12, 2008

Citation: (2009) 1 JCR 521

Hon'ble Judges: Dabbiru Ganeshrao Patnaik, J

Bench: Single Bench

Final Decision: Dismissed

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.