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Ram Sundar Ram Vs The State of Jharkhand

W.P. (S) No. 3350 of 2014

Court: Jharkhand High Court

Date of Decision: July 15, 2014

Hon'ble Judges: Aparesh Kumar Singh, J

Bench: Single Bench

Advocate: Anil Kumar Sinha, Sr. Advocate and Abhishek Sinha, Advocate for the Appellant; Chaitali C. Sinha, JC to A.A.G. and Jai Prakash, Advocate for the Respondent

Judgement

Aparesh Kumar Singh, J.
Heard learned Senior counsel for the petitioner and the State.

2. The petitioner has been transferred by the impugned notification bearing no. 2095 dated 27th June 27th June 2014 issued by the Rural Works

Department, Government of Jharkhand, whereunder he has been transferred from his present place of posting at Works Sub Division, Giridih-I

Giridih and posted as Assistant Engineer, NREP, Hazaribagh within one and half year of the previous transfer order vide notification dated 29th

December 2012 and the Respondent No. 5 has been placed at his place.

3. Learned Senior Counsel, appearing on behalf of the petitioner, while assailing the impugned order of transfer, has fairly submitted that the

present transfer is a chain transfer of course and by the same notification, several other persons have been transferred from one place to another. It

is also submitted that such transfer has been made in the month of June itself. However, serious objection has been made to such exercise being

undertaken within a period of one and half year of the petitioner''s posting, though ordinarily under the resolution of 25th October 1980, duration

of posting on any post and at any particular place will generally be for three years. Learned Senior counsel submits that if the transfer is made

before the normal expected tenure, respondent must show any reason of administrative exigency for undertaking such a transfer. It is submitted that

the respondents are indulging in a bulk transfer even before completion of normal tenure of the officers and the present case being an example of

one such transfer. Learned Senior counsel for the petitioner relies upon a judgment rendered in the case of B. Varadha Rao Vs. State of

Karnataka and Others, thereof and submitted that though, the power and jurisdiction of the respondent to transfer an employee is not in question,

but such a frequent transfer without any justifiable administrative reason, should be inquired into and the respondent should be asked to explain the

reason for undertaking the same. Learned Senior Counsel has also relied upon a Division Bench judgment of this Court in the case of Uttam Kujur

Vs. State of Jharkhand and Others, and submitted that even in case of premature transfer, such premature transfer has also been interfered on an

earlier occasion by this Court. Therefore, respondent should be called upon to explain the reasons for undertaking such transfer.

4. Learned counsel for the State has submitted that the impugned order of transfer is a chain transfer involving several officers of the Rural Works

Department and the same has been undertaken during the period May-June which is permitted as per the Circular dated 25th October 1980. It is

further submitted that though, a normal tenure of an employee is generally for a period of three years, as per the said Circular, but in case of

administrative exigency, such transfer can be undertaken even before completion of such tenure. Therefore, the petitioner having been transferred

from Giridih to Hazaribagh, cannot have any occasion to complain. Therefore, the impugned order of transfer should not be interfered as it being a

chain transfer, it may have cascading effect.

5. I have heard learned counsel for the parties and gone through the relevant materials on record. It is not in dispute that the order of transfer has

been issued in the period of May-June, as is contemplated under the policy of the State dated 25th October 1980 regarding transfer and posting of

Government servant. Under Clause-A of the said Circular, in special circumstances, such as death, illness, vacancy or other administrative reasons,

transfer and posting could be made at any other time, subject to the fulfillment of the conditions laid down therein. Clause-2 of the said Circular

indicates that general duration of posting on any post and at any particular place would be for a period of three years. However, it is not in dispute

that the Government being the employer, can undertake the transfer by a notification, for any administrative reasons, before completion of tenure of

three years.

6. In the instant case, the petitioner was earlier transferred to Giridih by order dated 29th December 2012 and one and half years thereafter, by the

impugned notification which has been issued in respect of several officers of the Welfare Department, he has also been transferred as an Assistant

Engineer, NREP, in the district of Hazaribagh. It further appears that such transfer is a chain transfer and the respondent no. 5 has also been

posted at his place. It therefore appears that the impugned notification of transfer has been issued during the period of May-June, as permitted

under the said Circular and that, there is no complain that it has been done without the recommendation of the Departmental Establishment

Committee. It is also not in dispute that the transfer has been made by the competent authority having the jurisdiction to do so, as the notification

has been issued under the orders of Governor of Jharkhand.

7. In the aforesaid facts and circumstance, neither the impugned order of transfer has been shown as without jurisdiction or actuated with malafide.

It is also not the case that instant transfer of several officers from one place to another is made without the recommendation of the Establishment

Committee. This Court is not satisfied that there are any reason to interfere with the impugned order. In the case of Uttam Kujur (Supra), which

has been referred, transfer of the said employee appears to have been made within a period of six months itself which is not the case here.

8. In the aforesaid facts and circumstances therefore, I do not find any reason to interfere in the impugned notification, which is according

dismissed.