

Jaydeep Prasad Gupta Vs State of Jharkhand

Court: JHARKHAND HIGH COURT

Date of Decision: July 11, 2016

Citation: (2017) 1 JBCJ 208 : (2016) 3 JLJR 577

Hon'ble Judges: Mr. Ananda Sen J.

Bench: Single Bench

Advocate: Mr. Manoj Tandon Advocate, for the Petitioners; Mr. R.R. Mishra Advocate, for the State

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Mr. Ananda Sen J. - Aggrieved by the order contained in Memo no.789 dated 24.6.2016, four petitioners have approached this Court praying

to quash the same. All the petitioners are presently posted as Assistant Teachers in the Project High School in the district of Singhbhum West. The

petitioners no.1 and 3 are posted in Project High School, Khuntpani whereas petitioners no.2 and 4 are posted in the Project High School,

Kiruburu. An order was passed on 24.6.2016, vide Memo no.789 (impugned order) whereby these four petitioners were transferred to different

Project High School. The petitioners no.1 and 2 have been transferred to the Project High School, Jhilruwan, the petitioner no. 3 has been

transferred to Project High School, Serengada while the petitioner no.4 has been transferred to Project High School, Ghorabandha. The

petitioners have challenged the said order of transfer.

2. Learned counsel appearing for the petitioners submits that since they are working in the Project High School where they are at present posted,

as such, they could not have been transferred by the impugned order. He further submits that the ground for transfer as set forth over the impugned

order, is for rationalisation of the teacher which had to be done in several Project High School. This necessitated the transfer, but, in fact, even

after transferring these petitioners, rationalisation could not take place. He further submits that on earlier occasion in the year 1991 in respect of

petitioners no.1 and 3, the order of transfer was stayed/cancelled by the Director, Secondary Education, Government of Bihar, and as their

services still now have not been regularized, the petitioners cannot be transferred. Lastly, he submits that the petitioners no.1 and 4 are due to

superannuate in the month of January, 2018 whereas petitioners no.2 and 3 will superannuate in the month of January, 2019 and in that view of the

matter, the transfer order is absolutely bad.

3. Learned counsel appearing for the State submits that the transfer order has been passed after the decision has been taken by the District

Education Establishment Committee and pursuant to the said order, the petitioners have been transferred. He further submits that the said

committee, undoubtedly, has jurisdiction and authority to transfer the petitioners. Counsel for the State, supporting the transfer order, submits that

to rationalisation the number of teachers in schools, it was decided to transfer Assistant Teacher from one place to another and that has been done

without any mala fide intention. Lastly, he submits that the petitioners have failed to show any ground to interfere with the transfer order and thus,

this writ petition is liable to be dismissed.

4. After hearing counsel for the parties and going through the record, I find that vide order dated 24.6.2016, these four petitioners have been

transferred to their new place of posting, as mentioned above. From the transfer order, it is apparent that the Chief Secretary of the State on

27.5.2016 had given a direction to rationalise the number of Assistant Teacher in each Project School. Pursuant to such direction on 21.6.2016,

the District Education Establishment Committee held its meeting and decided to transfer nine teachers including these four petitioners to different

Project School.

5. The Hon"ble Supreme Court in the case of Shilpi Bose (Mrs.) and others v. State of Bihar and others [1991 Supp (2) SCC 659] has

held that an employee has got no vested right to the post.

6. The transfer order can be challenged on a very limited ground. Broadly speaking transfer order can be challenged on the ground of mala fide,

lack of jurisdiction and authority and if it is against the law and rules framed for this purpose.

7. Keeping in view the aforementioned proposition, the impugned order has to be tested. From the impugned order, as mentioned earlier, it is

apparent that the decision to transfer these petitioners was taken by the District Education Establishment Committee. It is not disputed that this

committee is the appropriate authority and has got jurisdiction to transfer the petitioners.

Further the reason for transferring the petitioners has been mentioned in the impugned order which says that to rationalise the number of teachers in

each school, these petitioners and others are transferred. The ground mentioned therein is absolutely justified and cannot be said to be mala fide. It

is also not the case of the petitioners that this order of transfer is mala fide. It is not a case of violation of any rule or regulation. That being so, the

impugned order does not suffer from any illegality.

8. I find no merit to interfere with the impugned order and hence, this writ application stands dismissed.

9. If any of the individual petitioner has some personal genuine difficulty, he may represent before the authorities which may be considered as per

law.