
(2016) 01 JH CK 0030

In the Jharkhand High Court

Case No : L.P.A. No. 735 of 2015 with I.A. Nos. 6864 of 2015, 6865 of 2015 and 2 of 2016

Ambika Prasad Mandal

APPELLANT

Vs

State of Jharkhand and others

RESPONDENT

Date of Decision : 05-01-2016

Acts Referred:

Citation : (2016) 2 JBCJ 441

Hon'ble Judges : Virender Singh, Chief Justice; P.P. Bhatt, J.

Bench : Division Bench

Advocate : Ram Kishore Prasad, Praful Jojo, Advocates, for the Appellant; Binod Poddar, AG, Shruti Shrestha, J.C. to A.G, for the Respondent

Final Decision : Dismissed

Judgement

Virender Singh, C.J. - Heard learned counsel for both the sides.

2. Appellant is the writ petitioner (for short petitioner), who, being aggrieved of the notification being memo no. 1414(3) dated 24th November, 2015, whereby he was transferred from the post of Civil Surgeon, Jamtara, to Sahibganj on the post of District Leprosy Eradication Officer, knocked the door of Writ Court through the medium of W.P (S) No. 5744/2015, taking various grounds, which did not find favour with learned Single Judge resulting into dismissal of the writ petition, vide impugned order dated 9th December, 2015, aggrieved thereof he has moved this Court through the instant Letters Patent Appeal.

3. No doubt, petitioner was transferred within five months of he being posted as Civil Surgeon, Jamtara, vide order Annexure-2 dated 30th June, 2015, whereby 17 other Doctors were also transferred to different places, what appears from the impugned order is that there were certain complaints made against the petitioner with regard to repeated strikes being undertaken by Non-Gazetted Employees Association, which had disturbed the working culture and ultimately with the intervention of the higher officials, the strikes were recalled. A report was

submitted in this regard by the Deputy Commissioner, Jamtara.

4. It is well settled that transfer is exigency of service and the Court is supposed to be very loath in interfering with transfer orders except in exceptional circumstances. The present case, on facts, does not fall in that category. The petitioner, in our considered view, has not been able to project any circumstance showing mala fide against the Deputy Commissioner, who had made a report against him. Conceded position before the Court is that even in the writ petition there is no whisper about mala fide. Being that the fact position in the case on hand, we find that the transfer order of the petitioner from Jamtara to Sahibganj, may be on different post, which admittedly is not the demotion affecting his seniority, does not smack of any unfairness, rather it indicates that he has been transferred keeping in view the working arrangement.

5. Viewed thus, we do not find any merit in the instant appeal calling for our interference. It, thus, merits dismissal. Ordered accordingly.

6. At this stage, Mr. Prasad, learned counsel for the petitioner, states that the petitioner has already moved certain representations for posting him as Civil Surgeon anywhere in the State but the said representations have not been accorded consideration by the authority concerned till date.

7. On specific query put to the learned counsel for the petitioner, whether the petitioner has joined at Sahibganj, he, on instructions, states that he has not joined till date. Being that the position in the case on hand, the petitioner, if joins at the place where he has been transferred vide order at Annexure-3, his representation(s) shall be accorded consideration within three weeks thereafter. Needless to say that a reasoned order shall be passed in this regard which shall be conveyed to the petitioner without any further delay.

I.A Nos. 6864/2015, 6865/2015 and 2/2016

8. Since the main Letters Patent Appeal stands dismissed on merits, the instant three applications render infructuous. Disposed of accordingly.