
(2020) 08 JH CK 0268
In the Jharkhand High Court
Case No : Writ Petition(S) No. 2127 of 2020

Arunanand Jha

APPELLANT

Vs

State of Jharkhand And Ors

RESPONDENT

Date of Decision : 27-08-2020

Acts Referred:

Citation : (2020) 08 JH CK 0268

Hon'ble Judges : Sanjay Kumar Dwivedi, J

Bench : Single Bench

Advocate : Samavesh Bhanj Deo, Kaushik Sarkhel

Final Decision : Disposed Of

Judgement

1. Heard, Mr. Samavesh Bhanj Deo, learned counsel appearing for the petitioner and Mr. Kaushik Sarkhel, learned counsel for the respondent State.
2. This writ petition has been heard through Video Conferencing in view of the guidelines of the High Court taking into account the situation arising due to COVID-19 pandemic. None of the parties have complained about any technical snag of audio-video and with their consent this matter has been heard.
3. Petitioner has preferred this writ petition for quashing order dated 08.07.2020 contained in Annexure-17 passed by the Director-In-Chief, Health Services, Health Directorate, Jharkhand, Ranchi whereby the petitioner has been transferred from the office of the Additional Chief Medical Officer, Deoghar to the office of the Additional Chief Medical Officer, Dumka on administrative ground.
4. At the outset, Mr. Samavesh Bhanj Deo, learned counsel appearing for the petitioner submits that the petitioner is Class-III employee and in the light of Government policy, guidelines and decision, 3rd Grade employee cannot be transferred without any exigency or in absence of consent of the concerned employee. He submits that the guidelines dated 20th January, 1992 fell for consideration before a Division bench of the Patna High Court in the case of "Md.

Kalli Mullah and others Vs. State of Bihar (C.W.J.C. No. 5944 of 1992 and analogous" cases, wherein the Court held that the transfer of Class-III employee beyond the cadre is invalid. He submits that although order has been passed by the Director-in-Chief, Health but he has not taken note of the guidelines contained in Memo No. 649 (6) dated 26th May, 1997. From the Resolution contained in Memo No. 649 (6) dated 26 th May, 1997, the Court in different cases has passed such order that transfer of the 3rd Grade employee cannot take place from one district to another district. He refers to several judgments annexed with the writ petition and submits that the case of the petitioner is fully covered with in the light of the said judgments.

5. Mr. Kaushik Sarkhel, learned counsel for the respondent-State submits that if the law provides that can be considered by the competent authority, if the petitioner approaches the competent authority by filing fresh representation along with his all contentions which have been raised in this writ petition

6. In view of the matter, the petitioner is directed to file a fresh representation along with all credential, guidelines on which he is relying before the respondent no. 2 who will pass order considering all aspects of the matter particularly, the guidelines in which it has been said that 3rd Grade employee cannot be transferred from one district to another district without any exigency and without consent of the employee, within a period of six weeks. The joining of the petitioner shall be governed in terms of decision taken by the Principal Secretary. The Secretary will also take into consideration the prevailing situation arising out of COVID-19 pandemic and will pass order.

7. With the aforesaid observation and direction, the writ petition stands disposed of.