
(2010) 08 RAJ CK 0117
In the Rajasthan High Court

Bhawani Shanker Acharya

APPELLANT

Vs

State of Raj. and Others

RESPONDENT

Date of Decision : 06-08-2010

Acts Referred:

Citation : (2010) 08 RAJ CK 0117

Hon'ble Judges : Vineet Kothari, J

Bench : Single Bench

Judgement

Vineet Kothari, J.—Heard learned Counsel for the petitioner.

2. The petitioner being aggrieved by his transfer from Bikaner to nearby village Kakku in Bikaner district, about 100 kilometers away from Bikaner, approached this Court against the impugned transfer order dated 08.04.2010 (Annex-2) as well as impugned order dated 27.07.2010 (Annex-7) passed by Rajasthan Civil Service Appellate Tribunal.

3. Learned Counsel for the petitioner submits that petitioner is suffering from 50% physical disability which he sustained in a serious accident in the year 2005 resulted into fracture of both hips. On account of aforesaid physical disability the petitioner can be accommodated in the offices of Rajasthan Education Department at Bikaner itself. Learned Counsel for the petitioner further submits that representation submitted by the petitioner to the concerned authority, Deputy Director has been dismissed merely because, even with said 50% physical disability, the petitioner was able to manage himself.

4. Learned Counsel for the petitioner also brought to the notice of the Court that petitioner brought to the notice of the concerned authority that there are three offices in which vacancies might exist for absorbing the petitioner, UDC instead sending him to the field duties, 100 kilometers away which at his advanced age of 55 years would create lot of physical difficulties for him in view of said physical disability.

5. Having heard learned Counsel for the petitioner and after perusing the

impugned orders, it appears that the authority concerned as well as learned Tribunal have not looked into this aspect of the matter that if the petitioner could be accommodated at some other place in Bikaner itself as there exist some vacancies might exist but have rejected the representation/stay application of the petitioner only on the ground that even with 50% physical disability since he could manage his personal affairs, therefore, there was no need to interfere with the impugned transfer order.

6. The approach of the concerned authority and the learned Tribunal in the present case appears to be slightly unsympathetic and inconsiderate towards actual condition of the petitioner. It is true that transfer is incident of service and Courts do not interfere in the same but in the present case it appears that the authority concerned has disposed of the representation rather with vehemence against the petitioner instead of having a sympathetic and objective consideration of the facts and situation.

7. Consequently, the writ petition is disposed of with a direction to Deputy Director, Education Department, Churu to reconsider the representation of the petitioner and dispose of the same by a speaking order, preferably within three weeks, taking into account the availability of vacancies at Bikaner itself and if the petitioner can be accommodated at the same place, his representation may be considered sympathetically. The petitioner may not be relieved for a period of three weeks if not relieve already so far. No order as to costs. Copy of this order be sent to respondents immediately.