
(2002) 04 JH CK 0073

In the Jharkhand High Court

Case No : Writ Petition (S) No. 5763 of 2001

Dr. Harish Chandra Dhody

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 15-04-2002

Acts Referred:

Citation : (2002) 04 JH CK 0073

Hon'ble Judges : M.Y. Eqbal, J; Hari Shankar Prasad, J

Bench : Division Bench

Advocate : M.S. Anwar, Rajesh Kumar and Ruby Parween, for the Appellant; Kalyan Roy, S. Prasad, S.B. Gadodia, R.K. Verma, V.N. Choudhary, Binod Kumar, S.N. Das and S. Srivastava, for the Respondent

Final Decision : Allowed

Judgement

1. Heard the learned counsel for the parties.
2. The petitioner while challenging the order of his transfer made serious allegations against the respondent State of Jharkhand for making discrimination in the matter of transfer of respondent Nos. 5 to 11 inasmuch as despite several judgments and orders passed by the Patna High Court and by this Court, directing the Government to transfer all those doctors who have been continuously remained in one station to another place, these respondents were retained in the same districts.
3. The petitioner also impleaded those private respondents who have been transferred by the State of Jharkhand from one place to another place within the same district.
4. The learned Single Judge while refusing to interfere with the order of the transfer of the petitioner took notice of the averments made by the writ petitioner and referred the matter to a Division Bench for considering the allegations that have been made by the petitioner in the matter of transfer of doctors and giving, undue advantage to some of them including the respondents

by transferring them within the same district.

5. From perusal of Annexure-2 to the Writ Petition it appears that earlier also a public interest litigation was filed, being CWJC No. 844 of 2001 seeking a direction from this Court to the State Government to pass appropriate order in the matter of transfer of those doctors, who have been continuously posted in one place for more than 10 years. In the earlier writ petition, counter affidavit was filed by the Health Department to the effect that all those doctors who have been posted at one place for more than 10 years shall be transferred from one district to another district. Although, this Court decided to dispose of the Writ Petition by issuing a general direction to the Health Department and the Labour Department of the State of Jharkhand to see that all those doctors who have posted in one place for more than 10 years should be transferred but the learned counsels appearing for the private respondents prayed the Court to decide the question of validity of their transfer which was done pursuant to Annexure-5 to the writ application. Hence we are deciding the question whether the order of transfer of those private respondents was justified in the light of the orders time to time passed by this Court.

6. From perusal of the record it appears that respondent No. 5. Dr. Tripurari, who continuously remained in Ranchi for more than 11 years, has been transferred from Ranchi to Namkum. Similarly Dr. Nilu Sinha. respondent No. 6 transferred from Ranchi to Namkum. Dr. Rajeshwar Prasad, respondent No. 7, similarly remained in Ranchi for more than 13 years and now working at Namkum. Dr. Aditya Kumar Rana. respondent No. 8, remained in Ranchi for 11 years and now he has been transferred to Kokar. Respondent No. 9, Dr. Ramchandra Choudhary, who continuously remained in Dhanbad for 10 years, has been transferred in the same district. Respondent No. 10. Dr. Sanjay Kumar. Medical Officer, he also continuously remained in Adityapur Dispensary. Jamshedpur for more than 10 years, has been transferred to Saraikella.

7. It is worth to mention here that the Adityapur and Saraikella were within the same district of West. Singhbhum. Respondent Nos. 5 and 6 in their counter affidavit have admitted that respondent No. 5 was posted in Patratu since 1978 and remained there upto 1990 and in the year 1991 he has been transferred to Namkurn ESI Hospital. He remained there for about 7 years and again he was posted at Kokar and from there he was posted at Namkurn. Since his wife was also posted at Ranchi then despite his continuance in the district of Ranchi for about more than 20 years, he was again posted at Ranchi. Similar is the case of respondent Nos. 7 and 11. Respondent No. 7 has been transferred from Kokar ESI Hospital to Namkum which is not more than 6/7 kilometres from Ranchi. In the counter affidavit a plea has been taken that he has been sent on deputation to Employees State Insurance Corporation on a special post after the correspondence made with the Government of Jharkhand, Labour Department and the Central Government. Respondent No. 11 was posted at Jehanabad in 1991 from there she was posted in the ESI Dispensary. Kokar in the year 1995.

At the relevant time, respondent No. 7 was posted at Namkum.

8. It is also worth to mention here that although respondent No. 11 wife of respondent No. 7 was posted at Kokar but. no representation was filed at that time by the respondent No. 7 or respondent No. 11 to accommodate them in one place. It is admitted fact that respondent Nos. 7 and 11 were posted within the distance of 5/6 kilometres.

9. In the counter affidavit filed by the Health Department and the Labour Department nothing has been said that for some special reasons these respondents have been transferred and posted to ESI Hospital within the same district. In the counter affidavit of the Labour Department it is stated that the case of transfer and posting of the respondents shall be taken up in the next meeting of Establishment Committee which is likely to be held in May-June 2002. It is further stated that because of the pendency of writ petition decision could not be taken in this regard.

10. We have, therefore, no doubt in our mind that the Health Department of the Government of Jharkhand has adopted pick and choose methods in transferring and posting the doctors who were continuously posted in the same district for more than 10-11 years. These respondent Nos. 5 to 11 seems to have been continuously remained in the same district for more than 10 years. It is high time that the Government should immediately take a decision, for transfer all such doctors to another districts. If there is a policy decision to the effect that the husband and wife, should remain in one place, liberty is given to the respondent-State to post husband and wife in the same district but not in the district where either of them continuously working for more than 10 years.

11. The Secretary, Labour Department and Health Department are directed to immediately and forthwith comply this order latest, by 30th April, 2002 and send a compliance report to the Registrar General of this Court. On receipt of the compliance report the Registrar General shall place the matter under the heading to be mentioned.