
(2023) 06 CHH CK 0049
In the Chhattisgarh High Court
Case No : Writ Appeal No. 326 Of 2021

Dr. Lallan Singh

APPELLANT

Vs

State Of Chhattisgarh

RESPONDENT

Date of Decision : 26-06-2023

Acts Referred:

Citation : (2023) 06 CHH CK 0049

Hon'ble Judges : Sanjay K. Agrawal, J; Radhakishan Agrawal, J

Bench : Division Bench

Advocate : Suryapratap Yudhveer Singh, Akanksha Jain

Final Decision : Disposed Of

Judgement

Sanjay K. Agrawal, J

1. The short question involved in this writ appeal is, whether the State Government is justified in changing appellant's place of posting from Kondagaon to Bijapur after revoking his order of suspension ?

2. The appellant herein, who was working as Deputy Director of the Veterinary Services in Kondagaon was placed under suspension vide order dated 14/09/2020. Thereafter, his order of suspension was revoked vide order dated 09/07/2021, however, his place of posting was changed from Kondagaon to Bijapur, feeling aggrieved against which, the appellant herein, preferred WPS No. 4295 of 2021 whereby learned Single Judge disposed of the writ petition directing the respondents to consider appellant's/petitioner's representation with regard to his grievance in change of place of posting after revoking his suspension, however, the appellant, not being satisfied by the order of the learned Single Judge, has preferred this writ appeal.

3. Mr. Suryapratap Yuddhveer Singh, learned counsel for the appellant, would submit that the State Government is absolutely unjustified in changing appellant's place of posting from Kondagaon to Bijapur after revoking his

suspension which is totally contrary to law and impermissible in law.

4. Ms. Akanksha Jain, learned State counsel, would invite the attention of this Court in the decision rendered by the Division Bench of this Court in the matter of L.P. Saket v. Chhattisgarh State Civil Supplies Corporation Limited WPS No. 7269/2017 decided on 15/11/2018 wherein it has already been held that it is not a thumb rule that an employee whose suspension has been revoked has a right to be posted and continued in the same place of posting on revocation of suspension, as he only has a lien on the post and not on the place of posting, therefore, the instant appeal deserves to be dismissed.

5. We have heard learned counsel for the parties, considered their rival submissions made herein-above and went through the records with utmost circumspection.

6. In order to answer the plea raised at the Bar, it would be appropriate to notice the judgment rendered by this Court in the matter of L.P. Saket (supra) wherein the Division Bench formulated the following question for consideration in paragraph 1 :-

"1. Vide order date 27.03.2018, the learned Single Judge, while dealing with the present writ petition on the question whether an employee placed under suspension on charges of omission and commission for which a departmental proceeding was initiated and is still subsisting, has a right to be posted back to the same place of posting after revocation of suspension or he can be given another place of posting."

7. Thereafter, the aforesaid question has been answered by the Court in paragraphs 12 and 14 of the judgment, which states as under :-

"12. Keeping in mind what the Full Bench of the Madhya Pradesh High Court has had to say in the case of Asif Mohd. Khan v. State of Madhya Pradesh and Ors. 2015 (4) MPLJ 406 and even with regard to correctness or otherwise of the decision rendered in the case of Kendriya Vidyalaya Sangathan & Others. V. Dr. R.K. Shastri & Another 2005 (4) MPHT 352, we are constrained to hold that the order passed by a coordinate Bench of the Single Judge in the cases of Khadanand Patanwar v. State of Chhattisgarh & Others WPS No. 3146/2015 and Khelendra Kumar Singh v. State of Chhattisgarh WPS No. 5039/2015 are not good laws. There is no right of an employee to claim a place of posting on revocation of suspension as a matter of right and the competent authority can very well transfer an employee to yet another place after revocation of suspension even otherwise keeping the exigencies of service into consideration as also that posting such a person on the same post and place where a departmental enquiry was still going on against him, may not be in the interest of the administration since there could be every possibility of such an employee to tamper with the evidence and not allow a free and fair enquiry to be held. We may also notice that during period of suspension, the Head Quarter of an employee is always fixed away from the place of posting which has an object and

reason. The same will be defeated if it is held that the employee has a lien on place also.

14. The question of law for which the reference was made has been answered in the preceding paragraphs of this order. To sum, it cannot be a thumb rule that an employee whose suspension has been revoked has a right to be posted and continued in the same place of posting on revocation of suspension, as he only has a lien on the post and not on the place of posting."

8. Thus, it has clearly been held by the Division Bench of this Court that an employee whose suspension has been revoked has no legal right to be posted and continued in the same place of posting on revocation of suspension, as he only has a lien on the post and not on the place of posting. The competent authority has the jurisdiction to change the place of posting as per administrative exigency. In that view of the matter, appellant's claim that he ought to have been posted at his earlier place of posting after revocation of suspension cannot be accepted and is hereby rejected. However, appellant is at liberty to make representation before the respondent authorities for redressal of his grievance/ posting in District Kondagaon within three weeks from today which will be considered and decided within further three weeks from the date of filing of the representation on its own merits in accordance with law.

9. With the aforesaid liberty reserved in favour of the appellant, this writ appeal stands disposed of.