
(2008) 02 JH CK 0079
In the Jharkhand High Court

Dr. Pramod Kumar Jha

APPELLANT

Vs

Chancellor, Vinoba Bhave University and Others

RESPONDENT

Date of Decision : 05-02-2008

Acts Referred:

Citation : (2008) 2 JCR 155a

Hon'ble Judges : Narendra Nath Tiwari, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Narendra Nath Tiwari, J.—In this writ petition, the petitioner has prayed for quashing the order, issued by the University vide Memo No. VBU/2567/06 dated 4.4.2006. by which the petitioner has been sought to be transferred from the Department of Commerce, R.S.P. College, Jharia to the Department of Commerce, J.J. College, Jhumritelaiya by way of punishment and also preventing him to claim his seniority on teachers already posted in the Department of Commerce, J.J. College, Jhumritelaiya. The petitioner has also prayed for quashing the order passed by the Chancellor of the University dated 18.6.2007, whereby the petitioner's appeal has been rejected ex parte and without giving any opportunity of hearing.

2. The main grievance of the petitioner is that the impugned transfer order, by way of punishment, has been passed without giving him any notice and opportunity of representation/hearing. It has been stated that no enquiry was held in his presence. By the impugned order, the petitioner has been transferred as well as he has been debarred from claiming his seniority. The petitioner preferred appeal against the said order before the Chancellor. The said appeal was also disposed of without giving any opportunity of hearing. It has been stated that the order of punishment passed by the Vice-Chancellor, contained in An-nexure-3 as also the appellate order rejecting the petitioner's appeal without giving him opportunity of hearing are arbitrary and violative of principles of natural justice. The same are not sustainable.

3. A counter-affidavit has been filed on behalf of the respondents stating, inter alia, that a complaint was received against the petitioner and to enquire into the complaint, a Committee was constituted consisting of several members. The said Committee conducted the enquiry and made recommendation. The respondent No. 2, Vice-Chancellor on the basis of the said recommendation of the Enquiry Committee has passed the impugned order transferring the petitioner with immediate effect. The petitioner filed appeal before the Chancellor, which was also rejected.

4. However, in the counter-affidavit it has not been stated that any notice was issued to the petitioner or any charge was framed regarding the allegation or department proceeding was held in his presence or any opportunity of hearing was afforded to the petitioner. It has been admitted that the petitioner has been transferred by way of punishment.

5. When the case is called out today, nobody appeared on behalf of the University.

6. I have heard learned Counsel for the petitioner and perused the facts and materials appearing in the writ petition as also in the counter-affidavit filed on behalf of the respondents.

7. On perusal of the counter-affidavit, I find that the respondents have admitted that the petitioner was transferred on some complaint and by way of punishment. However, there is no statement in the counter-affidavit that any notice or opportunity of hearing was given to the petitioner before passing the said punitive order. By the impugned order, petitioner has not only been transferred, but he has also been debarred from claiming his seniority. The said order is thus prejudicial to the interest of the petitioner and visits him with civil consequences.

8. It is well settled that any order leading to civil consequence cannot be passed without following the rules of natural justice. In the instant case, admittedly, the rules of natural justice has not been followed. For the reasons aforesaid, the impugned orders, as contained in 3 and 8, cannot sustain in law. The same are hereby quashed. This writ petition is allowed.