
(2003) 02 JH CK 0074

In the Jharkhand High Court

Case No : Writ Petition (S) No. 1 of 2003

Farhana Khatoon

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 10-02-2003

Acts Referred:

Citation : (2003) 1 JCR 640 : (2003) 97 FLR 773

Hon'ble Judges : S.J. Mukhopadhaya, J

Bench : Single Bench

Advocate : A. Allam and A. Hussain, for the Appellant; M.K. Laik, Senior Standing Counsel I. and U. Choudhary, J.C. to Sr. S.C.I., for the Respondent

Final Decision : Dismissed

Judgement

S.J. Mukhopadhaya, J.—The petitioner has challenged the Notification bearing Memo No. 3737 dated 13th December, 2002 whereby she has been transferred to Headquarters at Ranchi and has been asked to report after return from leave and to submit medical fitness certificate of the Medical Board for sanction of leave.

2. The case of the petitioner is that vide Notification No. 1045 dated 6th April, 2002 she was transferred. It was challenged by her in W.P. (S) No. 2612 of 2002. The Court vide order dated 25th April, 2002 While did not choose to interfere with the order, liberty was given to petitioner to move before the Secretary, Human Resources Development Department, Jharkhand to bring to its notice the allegations and infirmities as were alleged in the writ petition.

Thereafter, the respondents posted the petitioner as D.S.E. Hazaribagh vide Notification dated 30th June, 2002 where she joined on 3rd July, 2002.

3. Further case of the petitioner is that the District Education Establishment Committee in its meeting dated 25th September, 2002 decided to transfer a number of Primary School Teachers. A number of politicians/MLAs written letter and recommended for transfer and posting of one or other Primary School

Teacher in one or other school. She was pressurized and harassed at the hands of the politicians, she having faced with great mental tension and subsequently being ill, was advised by the doctor to take rest for some days. She had to proceed on medical leave on 25th November, 2002 whereinafter the Deputy Commissioner, Hazaribagh, vide order dated 26th November, 2002 directed the DEO, Hazaribagh to perform the duty of DSE, Hazaribagh in absence of petitioner.

4. The grievance of the petitioner is that before her rejoining, the Respondents issued impugned Notification dated 13th December, 2002 at the instance of some politicians and arbitrarily posted the petitioner in the Headquarters at Ranchi for certain allegations casting stigma on the petitioner.

5. The counsel for the petitioner submitted that the petitioner had to proceed on leave because of miscarriage at the initial stage of pregnancy. During this period, the impugned order of transfer was issued making false allegations against the petitioner.

6. According to the Respondents, the petitioner was holding an important post of DSE, Hazaribagh. She proceeded on medical leave from 26th November, 2002 without mentioning any contact address. She also did not disclose as to how long she will be under treatment or how long she will be on leave. She also proceeded for such leave without prior approval of the competent authority. In this background, the Deputy Commissioner, Hazaribagh initially authorized the DEO, Hazaribagh to discharge the duty of DSE, as a stop gap arrangement, whereinafter the competent authority decided to post the petitioner in the Headquarters. The order of transfer is not an order passed by way of punishment, but for the administrative reasons which have been mentioned therein.

7. To find out whether the petitioner was transferred because of political pairvi or with a view to punish her, the Court directed the Respondents to produce the original file of transfer.

8. From the aforesaid file, it appears that the matter was discussed in" detail at different levels and decision was taken to transfer the petitioner in the Headquarters. It cannot be stated that any one or other politician/MLA is instrumental behind the transfer of the petitioner.

9. In the background aforesaid, I am not inclined to interfere with the Notification of Transfer.

10. The writ petition is dismissed. However, this order shall not stand in the way of the petitioner, if she represents before the competent authority.