
(2001) 08 JH CK 0060
In the Jharkhand High Court
Case No : CWJC No. 3211 of 2001

Jitendra Chaudhary and Others	Vs	APPELLANT
State of Jharkhand and Others		RESPONDENT

Date of Decision : 07-08-2001

Acts Referred:

Bihar Reorganisation Act, 2000 — Section 72, 72(1), 73, 74, 75

Citation : (2001) 08 JH CK 0060

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

Bench : Single Bench

Advocate : C.S. Pandey, for the Appellant; B.S. Lall, A.A.G., for the Respondent

Final Decision : Dismissed

Judgement

S.J. Mukhopadhaya, J.—This application has been preferred by the petitioners against the Notification No. 881, dated 29th June, 2001, whereby and whereunder, the petitioners have been transferred from one place to another within the State of Jharkhand.

2. Admittedly, the petitioners are members of State Animal Husbandry Service (The Bihar Animal Husbandry Service) and are posted in one or other districts within the State of Jharkhand. The impugned notification has been issued on 29th June, 2001, by the State of Jharkhand and by transferring the petitioners, they have been posted against one or other posts and offices within the State of Jharkhand.

3. The petitioners have assailed the common notification on the ground that the State of Jharkhand has no jurisdiction to transfer or post them, they being employee of State of Bihar and as they are serving the State of Bihar u/s 72(1) of the Bihar Reorganisation Act, 2000, no general or special order allotting their services under the State of Jharkhand having issued by the Central Government.

4. The counsel for the petitioners relied on Sections 72, 73, 74, 75 and 76 of the Bihar Reorganisation Act, 2000, to suggest that the power of transfer vests with

the parent-State of Bihar and not with the State of Jharkhand.

5. The submission was made on behalf of the counsel for the State of Jharkhand, who also relied on Sections 74 and 76 of the Reorganisation Act, 2000.

6. Admittedly, since the date of reorganisation, i.e., 15th November, 2000, the petitioners are posted against posts and offices within the State of Jharkhand. They are members of the State service and no general or special order issued by the Central Government asking the petitioners either to serve provisionally in connection, with the affairs of the State of Jharkhand or finally allotted their services under one or other successor-State in terms with Sub-section (1) or (2) of Section 72 of the Bihar Reorganisation Act, 2000.

In absence of such notification u/s 72 by the Central Government there appears to be no application u/s 73 of Reorganisation Act, 2000, in the present case.

7. u/s 74 of the Reorganisation Act, 2000, provisions as to continuance of persons in the same post has been laid down. Thereunder, every person, who immediately, before the appointed date, 15th November, 2000 herein, is holding or discharging the duties of any post or office in connection with the affairs of the existing State of Bihar, i.e., the parent-State of Bihar as was existing prior to 15th November, 2000, in any area which on 15th November, 2000, falls within any of the successor- State of Bihar or Jharkhand, shall continue to hold the same post or office in that successor-State. Such Officer shall also be deemed, on and from 15th November, 2000, to have been duly appointed to the post or office by the Government or any other appropriate authority in that successor-State.

Under Proviso to Section 74, the competent authority on and from 15th November, 2000, has power to pass order affecting the continuance of such person in such post or office.

8. The petitioners, who immediately before 15th November, 2000 were serving the affairs of the existing State of Bihar the parent-State of Bihar), their area having fallen since 15th November, 2000 within the successor-State of Jharkhand, continue to hold the same post and office in the successor-State of Jharkhand u/s 74 of the Reorganisation Act, 2000. The State of Jharkhand, under the said provision of Section 74 shall deem on and from 15th November, 2000, to be the appointing authority of petitioners. In the circumstances, under Proviso to Section 74, it is always open to the State of Jharkhand to pass any order affecting the continuance of petitioners against such posts and offices.

19. There is no allegation that the transfer of petitioners has been made which would affect their rank and status. In the circumstances, their conditions of service, as were applicable immediately, on 15th November, 2000 having not varied to their disadvantage, no violation of Section 73 of the Reorganisation Act, 2000, can be alleged.

10. For the reasons aforesaid, the Court is not inclined to accept the submission

as raised on behalf of the petitioners and the notification of transfer dated 29th June. 2001, has been issued in public interest and or on the request of one or other incumbent, this Court is not inclined to interfere with the same.

11. The writ petition is dismissed.

12. Writ petition dismissed.