
(2011) 05 RAJ CK 0024

In the Rajasthan High Court

Case No : Civil Writ Petition No. 14900 of 2010 and Civil Miscellaneous Stay Application No. 7525 of 2010

Jwala Prasad Meena

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 05-05-2011

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2011) 05 RAJ CK 0024

Hon'ble Judges : Mahesh Bhagwati, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Mahesh Bhagwati, J.—By way of the instant writ petition, the Petitioner has challenged the order dated 18.9.2010, whereby the Petitioner has been transferred from Deenwa Ladkhani, Sikar to Dalpatpura, Sikar.

2. Having heard the learned Counsel for the Petitioner, it is noticed that against the transfer order dated 18.9.2010, the Petitioner preferred an appeal before the Tribunal. The learned Tribunal placed reliance upon the judgment rendered by this Court in the case of Bhagwan Das Mittal v. State of Rajasthan and Ors. reported in ILR 2007 502, admitted the appeal and rejected the stay application. Thus, the main appeal is pending before the Rajasthan Civil Services Appellate Tribunal and the Petitioner has filed the instant writ petition against the interlocutory order.

3. Albeit, the Petitioner is found to have stated before the Tribunal that only two years are left in his retirement and with a view to accommodate Lekh Singh, he was transferred, conversely, a bare perusal of the order dated 14.10.2010 suggests that the retirement of the Petitioner is in the year 2013, while the retirement of Lekh Singh is in the year 2011. Thus, the condition of Lekh Singh is more pressing than that of the Petitioner.

4. In number of cases, the Hon''ble Apex Court has consistently held that it is the duty of the employee to first report for work where he is transferred and make a representation as to what may be his personal problems. This tendency of not reporting at the place of posting and indulging in litigation needs to be curbed.

5. In the instant case, the Petitioner instead of reporting the duty at the new place of posting, is found to have indulged in litigation by invoking the jurisdiction of one forum or the other. If he had any grievance, he ought to have first joined the duty and thereafter submitted the representation before the Respondents imploring them to consider the same sympathetically, but he has failed to do so.

6. In view of above, the impugned order is found to be just and apt. It does not suffer from any illegality or infirmity. The learned Counsel for the Petitioner has utterly failed to make out a case in his favour that he has been transferred out of vengeance or with malafide. The Petitioner has no case to invoke extraordinary jurisdiction under Article 226 of the Constitution.

7. For the reasons stated above, I find no merit in this writ petition and the same being bereft of any merit deserves to be dismissed, which stands dismissed accordingly.

8. Consequent upon the dismissal of writ petition, the stay application, filed therewith, does not survive and that also stands dismissed.