
(2019) 08 RAJ CK 0327
In the Rajasthan High Court
Case No : Special Appeal Writ No. 928 Of 2019

Kalpna Joshi

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 19-08-2019

Acts Referred:

Rajasthan Education Subordinate Service Rules, 1971 — Rule 6D

Citation : (2019) 08 RAJ CK 0327

Hon'ble Judges : Sangeet Lodha, J;P.K. Lohra, J

Bench : Division Bench

Advocate : M.S. Godara

Final Decision : Dismissed

Judgement

1. This appeal is directed against order dated 25.7.19 passed by the learned Single Judge of this court, whereby the writ petition preferred by the appellant, assailing the legality of order dated 11.7.19 issued by the District Education Officer (Headquarter), Secondary Education, Bhilwara, transferring the appellant from Government Primary School, Bawariyo Ka Khera (Khari Ka Lamba-Hurda) to Government Senior Secondary School, Raghunathpura (Asind), has been dismissed.

2. The appellant was initially appointed on the post of Teacher Gr.III on 14.2.19 pursuant to the recommendations of the District Establishment Committee, Bhilwara under the provisions of Rajasthan Panchayati Raj Rules, 1996. The appellant's services were transferred to the Department of Education, Government of Rajasthan in exercise of the power conferred under Rule 6D of Rajasthan Education Subordinate Service Rules, 1971 (for short "the Rules of 1971") and accordingly, vide order dated 1.7.16, she was transferred from Government Middle School, Patio Ka Khera to Government Senior Secondary School, Thala, Raipur. However, on the representation being made by the appellant, raising the personal grievance, the said order was withdrawn vide order dated 6.7.16, issued by the Block Elementary Education Officer, Panchayat

Samiti, Hurda. Then, the appellant, who was posted at Government Primary School, Bawalo Ka Khera, was transferred to Government Primary School, Bawariyo Ka Khera. Later, vide order dated 9.6.19, the appellant's services were again transferred to the Department of Education in exercise of the power conferred under Rule 6D of the Rules of 1971 and accordingly, she was transferred from Government Primary School, Bawariyo Ka Khera to Government Senior Secondary School, Raghunathpura (Asind). Aggrieved thereby, the appellant preferred a writ petition No.7884/19 before this court. A batch of writ petitions led by Writ Petition No.8085/19 including the writ petition preferred by the appellant, was disposed of by the learned Single Judge of this court vide order dated 21.6.19. The order impugned in the writ petition filed by the appellant stood quashed and the appellant was permitted to raise her grievance before the Grievance Committee constituted pursuant to the order passed by the learned Single Judge. The representation made by the appellant raising the grievance was rejected by the Grievance Committee vide order dated 5.7.19. Consequently, vide order dated 11.7.19, the appellant has again been transferred from Government Primary School, Bawariyo Ka Khera to Government Senior Secondary School, Raghunathpura (Asind).

3. The writ petition preferred by the appellant assailing the legality of the order dated 11.7.19 has been dismissed by the learned Single Judge observing that the entire exercise which has been undertaken by the respondent for transferring the Teachers from Elementary Education to Secondary Education based on policy whereby the Teachers recruited under provisions of Rules of 1996 were to be accommodated at the elementary level and based on seniority either the Teachers have been subjected to proceedings under Rule 6D of the Rules of 1971 or they have been transferred from elementary to secondary schools. Learned Single Judge observed that the policy decision has been uniformly applied by the respondent and therefore, the order transferring the appellant does not warrant any interference.

4. Learned counsel appearing for the appellant contended that the learned Single Judge has dismissed the petition observing that no post of Teacher Gr.III Level I is available in Hurda Block where the appellant can be accommodated whereas, two posts were lying vacant in the same school from which the appellant was transferred and the same are filled up by the respondents by transferring fresh appointees vide order dated 19.7.19. Learned counsel submitted that the appellant is a single woman and therefore, it is absolutely necessary that she is posted nearby the place of her residence i.e. Gulabpura.

5. Indisputably, the order passed by the competent authority transferring the appellant to Department of Education in exercise of the power conferred under Rule 6D of the Rules of 1971 was not impugned before the learned Single Judge and the same has attained finality. The appellant having been transferred as aforesaid in exercise of the power conferred under Rule 6D, she cannot claim posting in Primary School run by the Panchayati Raj Institution as a matter of

right. There is nothing on record suggesting that the policy adopted by the Government as aforesaid is not applied uniformly. The transfer is incidence of service and an employee holding the transferable post, can always be transferred from one place to another in accordance with the rules or the policies in vogue. On account of the appellant being single, she cannot claim posting at a particular place for indefinite period. In any case, if the appellant has any personal grievance against the posting, it is always open for her to raise grievance in this regard by way of representation to the competent authority.

6. In this view of the matter, order impugned passed by the learned Single Judge declining to interfere with the order passed by the respondents, transferring the appellant as aforesaid, does not warrant any interference by us in exercise of intra court appeal jurisdiction.

7. In the result, the intra court appeal fails, it is hereby dismissed in limine.