

(2002) 10 JH CK 0009
In the Jharkhand High Court
Case No : CWJC No. 808 of 2000

Keshaw Narayan Bhagat

APPELLANT

Vs

Ranchi University and Others

RESPONDENT

Date of Decision : 31-10-2002

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2002) 10 JH CK 0009

Hon'ble Judges : Vikramaditya Prasad, J

Bench : Single Bench

Advocate : V. Shiv Nath, M.M. Sharma and Ashok Kumar Sinha, for the Appellant; M. Khan, for the Respondent

Judgement

By the Court.

1. Heard both sides.

2. The petitioner was working in K.S. College at Seraikella as Head Assistant. There was an agreement between the University and the association of Class III and IV grade employee for re- designation of the post of Head Assistant as Sectional Officer. Subsequent to that the petitioner was redesignated as Sectional Officer by the Principal of the K.S. College, then he was transferred to Doranda College, Ranchi by the University at the post Assistant where he was deprived of the designation as Sectional Officer and the scale attached thereto which he was availing while at K.S. College Seraikella and when he made representation for his re-designation as Sectional Officer and giving pay scale of Section Officer it was denied. Consequently the petitioner moved this Court in this writ.

3. The University has appeared and filed counter affidavit. It is the stand of the University that Doranda College got a constituent status prior to the K.S. College. Thus when the petitioner was transferred to Doranda College he obviously became Junior to the existing staff of Doranda College. Therefore he can not be allowed to work as Sectional Officer : Doranda College, consequently his

representation was rejected.

4. No doubt that K.S. College became the Constituent Unit of the University in the year 1980 and the Doranda College was constituent unit right from 1977 but it hardly make any difference when this petitioner was at Seraikella he was already enjoying the status of Sectional Officer, and principal of that college vide Annexure-5 had recommended for grant of pay scale of section officer to the petitioner. From this it is clear that the pay scale of Sectional Officer had not been made available to this petitioner even at K.S. College.

5. The question then is whether he could have been re-designated by the principal or not. The learned counsel for the University submits that the principal had no authority to re- designate, the re-designation or the grant of scale could have been done only with the approval of the University. Annexure-C appended to the counter affidavit the Clause 4 of this reads as follows :--

"Head Assistants and Accountants may be re-designated as Sectional Officers according to the new staffing pattern approved by the State Government as far as applicable to your college. However they will continue to draw pay in the existing scale for the present."

6. Corning to Annexure-3 one finds that earlier the promotion of this petitioner to the post of Head Assistant was approved by the University itself as back as on 25.3.1983.

7. Learned counsel for the University has referred to certain allegations levelled against this petitioner and submitted that consequent to this allegation the petitioner did not deserve promotion but this allegation as contained in Annexure-B is of 19.1.1989 and has been made by Principal of Doranda College where the petitioner had been transferred. So prior to his promotion as Head Assistant of the K.S. College this allegation did not exist. From the aforesaid facts following situation emerges :--

1. The promotion of the petitioner to Head Clerk of the K.S. College was approved by the University itself.

2. When the petitioner came on transfer to Doranda College there he became junior man and the allegation relates to his tenure at Doranda College.

3. The petitioner was transferred to Doranda College without his consent rather on administrative transfer by the University.

4. So far re-designation is concerned the spirit of the order contained in (Annexure-C) referred to above indicates that the re-designation could be done by the principal. So far this scale is concerned, it could be made available only after the approval of the University.

Then Annexure-5 says that the post of the petitioner was re-designated as Sectional Officer and his revised salary was referred to the University for Consideration.

8. In the aforesaid situation, the transfer of the petitioner from one constituent college to other constituent college without his consent was not at all justifiable because if it is permitted then University can transfer any senior Assistant enjoying the status of Head Assistant to other college and deprive him of his previous pay and status, this being the arbitrary approach and can not be permitted. Transfer can be there but to the pecuniary or status loss of the transferee.

9. Consequently the University is directed to re-consider the entire matter and pass a reasoned order and if possible they may revert the petitioner to the original station at the original post of Head Clerk. This must be done by the University within two months from the date of receipt production of a copy of this order.

10. With this direction this writ application is disposed of at the admission stage itself.