
(2010) 07 JH CK 0016

In the Jharkhand High Court

Case No : Writ Petition (S) No. 5441 of 2008

Mahendra Prasad

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 16-07-2010

Acts Referred:

Citation : (2010) 07 JH CK 0016

Hon'ble Judges : Rakesh Ranjan Prasad, J

Bench : Single Bench

Judgement

R.R. Prasad, J.—Heard the parties.

2. Learned Counsel appearing for the petitioner submits that the petitioner working as "X-ray Technician" at Referral Hospital, Madhupur, was transferred to the Office of Civil Surgeon, Seraikella vide order as contained in Memo No. 987 dated 10.09.2008. On being relieved on 27.09.2008, the petitioner gave his joining before the Office of the Civil Surgeon, Seraikella on 29.09.2008, but his joining was not accepted for the reason that no such vacant post was there and finding no way out, the petitioner filed a representation before the respondent No. 2 Director-in-Chief, Health Services, Govt. of Jharkhand, Ranchi but that also bore no result. Subsequently, the Deputy Secretary, Health, Medical Education and Family Welfare Department, Govt. of Jharkhand, Ranchi, passed an order as contained in Memo No. 88(2) dated 30.01.2009 (Annexure-4 to the LA.) whereby all the transfers made by the respondent No. 2-Director-in-Chief, Health Services, Govt. of Jharkhand, Ranchi, since July, 2008 was stayed till further order and, therefore, the petitioner, in the light of that order, approached to the respondent No. 5-Deputy Superintendent/Sub Divisional Medical Officer, Referral Hospital, Madhupur, for giving his joining but the respondent No. 5 did not accept his joining, though his transfer had been stayed by the State government as contained in Annexure-4. Finding no way out, the petitioner has preferred this writ application.

3. A counter affidavit has been filed on behalf of the State wherein it has been

stated that the petitioner had been transferred from Referral Hospital, Madhupur to the Office of Civil Surgeon, Seraikella, but the petitioner never gave joining and made false statement that the petitioner was not allowed to join at Seraikella and as such the petitioner does not have any case in his favour.

4. Having heard learned Counsel appearing for the parties and on perusal of the record, I do find that the petitioner was transferred from Referral Hospital, Madhupur to the Office of Civil Surgeon, Seraikella where as per the case of the petitioner, he went to join but he was not allowed to join for the reason that the post was not vacant. But meanwhile, an order was by the Deputy Secretary, Health, Medical Education and Family Welfare Department, Govt. of Jharkhand, Ranchi on 30.01.2009 by which order of the transfer, made by the respondent No. 2 Director-in-Chief, Health Services. Govt. of Jharkhand, Ranchi since, July, 2008, had been stayed till further order. No further order has been brought on record by the State Counsel, showing any modification has been made in the earlier order dated 30.01.2009 and in that event, order of transfer, as contained in Memo No. 987 dated 10.09.2008 stands stayed and in that view of the matter, the petitioner is never supposed to go to Seraikella for his joining.

5. At this stage, it be also noted that the petitioner has already been relieved on 27.09.2008, but that would be(sic) five in view of the order dated 30.01.2009 passed by the Deputy Secretary, Health Medical Education and Family Welfare Department, Govt. of Jharkhand, Ranchi and, therefore, the petitioner, under this situation, is directed to make a representation before the respondent No. 5-Deputy Superintendent/Sub Divisional Medical Officer, Referral Hospital, Madhupur within a period of three weeks from today along with a copy of this order and the respondent No. 5, after taking into account all the facts, as has been stated hereinabove, shall pass necessary order with respect to joining of the petitioner at Referral" Hospital, Madhupur, within a period of two weeks from the date of receipt of the representation.

6. According, this writ application is disposed of.