
(1989) 03 OHC CK 0017
In the Orissa High Court
Case No : O.J.C. No. 3510 of 1988

Minaketan Patnaik

APPELLANT

Vs

State of Orissa and Others

RESPONDENT

Date of Decision : 27-03-1989

Acts Referred:

Citation : (1990) 69 CLT 78

Hon'ble Judges : R.C. Patnaik, J;L. Rath, J

Bench : Division Bench

Advocate : J. Patnaik, for the Appellant; Addl. Standing Counsel for opp. parties 1 to 3 and B.B. Mohanty, for opp. party No. 4, for the Respondent

Final Decision : Dismissed

Judgement

L. Rath, J.—The Petitioner, Headmaster of an aided High School has approached this Court against his transfer to another High School. It is his case that he was appointed as the Headmaster of Krupasindhu High School at Gopinathpur under Baramba P.S. in the district of Cuttack in the year 1972 and was transferred therefrom on 29-6-1988 to Uttar Kulat Bidyapitha at Bandalo and in his place one Dasarathi Sahu, Headmaster of Baideswar High School was transferred to Krupasindhu High School. Such order of transfer was however not made effective since the Inspector of Schools, opposite party No. 3, directed the respective schools on 12-7-1988 not to relieve both the teachers. On 10-8-1988 order was again passed transferring the Petitioner to A.S. High School, Nuapatna while maintaining the transfer of Shri Dasarathi Sahu to Krupasindhu High School. The Petitioner was relieved from Krupasindhu High School on 9-9-1988 and submitted his joining report at the A.S. High School but it was not accepted for which the Inspector of Schools addressed a letter on 12-9-1988 to the Secretary of A.S. High School to allow the Petitioner to join as Headmaster in that school by the next day. Nothing came out of it and on 31-10-1988 an order was passed by the Inspector of Schools, in pursuance of an order of the Director of Secondary Education, cancelling the order of transfer made on 10-8-1988. By the order, Shri

Dasarathi Sahu and the Petitioner were both directed to return back to their former posts as Headmasters of Baideswar High School and Krupasindhu High School respectively and join there immediately. Simultaneously, the Secretary of Krupasindhu High School was also directed to relieve Shri Dasarathi Sahu from the school and accept the Petitioner as Headmaster as per the Government instructions. The Petitioner's case further is that in accordance with the said order he joined Krupasindhu High School on 4-10-1938 and submitted a copy of his joining report to the Inspector of Schools. One day thereafter again order was passed on 5-10-1988 by the Inspector of Schools transferring Dasarathi Sahu as Headmaster of Krupasindhu High School in place of the Petitioner and transferring him as Headmaster of Baideswar High School. It is the Petitioner's contention that by such frequent transfer orders he has been unduly harassed and that since he had joined Krupasindhu High School on 4-10-1988 and successive transfer are not contemplated, his transfer to Baideswar High school should be quashed and he should be allowed to continue in Krupasindhu High School.

2. Counter affidavit has been filed by opposite parties 1 to 3, the State of Orissa, the Director of Secondary Education Orissa and the Inspector of Schools explaining that a normal order of transfer had been made transferring the Petitioner to Uttar Kulat Bidyapitha, but the Secretary of that school made a representation to post a Headmaster in his school having physics, Chemistry and Mathematics combination at the B. Sc. instead of the Petitioner who is an Arts Graduate and therefore could not properly substitute Shri Mahar Champati, the transferred Headmaster of that school, who was a science hand. In view of the representation, the Petitioner was transferred to A.S. High School of Uttar Kulat Bidyapitha. It appears that A.S. High School also faced similar difficulty with the Petitioner as that of Uttar Kulat Bidyapitha and did not allow him to join. The Inspector of Schools requested, vide Annexure-5 dated 12-9-1988, the Secretary of the school to allow the Petitioner to join there since the pleas of the school not having any Science Teacher with Physics, Chemistry and Mathematics combination at B. Sc. level and the school having allowed the son of the deceased Headmaster to join the vacant post of Trained Science Graduate with the aforesaid subjects, were illegal and irregular. The subsequent transfer of the Petitioner to Baideswar High School was made in accordance with the order of the Director of Secondary Education on 4-10-1988, Annexure-B to the counter affidavit, a perusal of which shows the Director to have intimated the Inspector of Schools that an administrative deadlock had resulted due to the fact that immediately after receipt of the transfer order, the Headmaster of Baideswar High School, Dasarathi Sahu, had been relieved and had joined Krupasindhu High School and the Head Master of Krupasindhu High School had also not left his place. The Director was thus of the opinion that since Dasarathi Sahu had joined Krupasindhu High School as Headmaster and his joining report had been accepted, the Petitioner be relieved and ordered to join at Baideswar High School. It was also intimated by the Secretary of Krupasindhu High School in his

letter dated 10-1-1989 that the Petitioner had not joined the school then. Besides, an objection was also taken in the counter-affidavit that it being the Petitioner's prayer that he should continue at Krupasindhu High School, Shri Dasarathi Sahu was a necessary party to the case and he having not been so impleaded, the writ petition is bound to fail.

3. Even though successive and frequent transfers of employees within short spans of time is practice which is to be deprecated, yet so far as the case of the Petitioner is concerned, the state of facts revealed in the counter-affidavit amply explains the factors necessitating the transfers. The earlier transfers of the Petitioner first to Uttar Kulat Bidyapitha and then to A.S. High School could not be made effective, due to opposition from those schools. The Petitioner was thereafter brought back to Krupasindhu High School but there is a dispute as to whether he had joined the school as contended by him on 4-10-1988 or not since the fact is disputed by the Secretary of that school. As there was a stalemate position the last order of transfer was passed transferring the Petitioner to Baideswar High School so as to resolve the deadlock. The Petitioner could not have a vested right to continue at Krupasindhu High School where admittedly he had been from 1972 to 1988. Besides, if the relief sought for by the Petitioner is to be allowed, posting of Shri Dasarathi Sahu in Krupasindhu High School is to be cancelled which is not possible in absence of him as a party to the case. In that view of the matter, we would not like to interfere with the order passed and hence the writ petition is dismissed. In the circumstances, there shall be no order as to costs.

R.C. Patnaik, J.

4. I agree.

Writ petition dismissed.