
(2016) 02 JH CK 0136
In the Jharkhand High Court
Case No : W.P. (S) No. 3138 of 2015

Pankaj Kumar Suman

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 09-02-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2017) 1 JLJR 639

Hon'ble Judges : Mr. Virender Singh, CJ. and Mr. Shree Chandrashekhar, J.

Bench : Division Bench

Advocate : Mr. Sumeet Gadodia, Advocate, Mr. Akshay Kumar Mahto, Advocate, for the Petitioner; J.C. to C.G.C, for the Respondent

Final Decision : Disposed Off

Judgement

Virender Singh, C.J.—The instant petition is at admission stage, however, with the consent of learned counsel for both the sides, taken on board for final consideration.

2. Heard learned counsel for both the sides and perused the records.

3. Through the instant petition the petitioner seeks quashing of the order dated 10.04.2015 passed by learned Central Administrative Tribunal, Patna Bench at Ranchi (for short "CAT") in OA/051/00263/2014 whereby the said OA seeking quashing of the order contained in letter No. AN/IB/113/Vol. XXXVI dated 14.08.2014 requesting Officer-in-Charge, LAO (A), Ranchi to relieve the petitioner of his duties and to direct him to report at Lucknow as well as order contained in letter No. ALAO/NKM/ESTT/VOL-XXVI dated 10.11.2014 by which he was relieved from his office on the same day, has been dismissed. It is worth mentioning here that the petitioner also filed review application seeking review of the order dated 10.04.2015 with a prayer for stay of his transfer but the same also stands dismissed vide order dated 20.04.2015.

4. At the very outset, it needs to be mentioned here that the petitioner after

being relieved vide order dated 10.11.2014, has not joined the present place of posting (Lucknow) till date despite there being any direction for putting the said order on hold. This fact itself can be taken seriously by this Court in rejecting the claim of the petitioner but on merits also we find that the petitioner has no case inasmuch as the main plea of the petitioner for seeking intervention in the transfer order on the strength of Rule 373 of Officer Manual Part-I dealing with the transfers beyond 56 years of age, has been dealt with by the learned CAT in detail, as one finds from the discussions made in the impugned order.

5. In terms of Rule 373 of Office Manual Part-I, persons above 56 years of age will not normally be subjected to transfer. The stand of the petitioner was that he is above 56 years, therefore, he should not have been transferred to Lucknow which plea did not find favour with the learned CAT on the ground that there is no absolute power forbidding the transfer of an employee above 56 years and in suitable cases such transfers can be done due to administrative exigencies and that in terms of Rule 373 of Office Manual regarding transfer above 56 years of age is qualified by word "normally", therefore, the petitioner cannot claim as a matter of right indulgence in his transfer which has been done due to administrative exigencies.

6. It is also worth mentioning here that the petitioner is an accused in court case No. RC/2/93A in CBI Court and the order transferring him in year 2013 was put on hold for one year. Therefore, the other plea taken by the petitioner for seeking intervention in the transfer order was that it will be difficult for him to appear in that case from Lucknow which also did not find favour with the learned CAT, rather, the view taken is that the respondents have not acted arbitrarily and have acted in a fair manner by deferring petitioner's transfer for one year in view of CBI case and that now at this stage continued presence of the petitioner in CBI case is not warranted.

7. We do not find any infirmity in the impugned order of learned CAT on any count so as to disturb the same, the said order being well reasoned order taking care of all the aspects.

8. Resultantly, the instant petition merits dismissal. Ordered accordingly.

9. I.A. No.4370 of 2015 and I.A. No.6665 of 2015 also stand disposed of.