
(2007) 12 JH CK 0053
In the Jharkhand High Court

Parma Nand Pandit

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 17-12-2007

Acts Referred:

Citation : (2008) 3 JCR 309

Hon'ble Judges : Narendra Nath Tiwari, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

N.N. Tiwari, J.—In this writ petition, the petitioner has prayed for implementation of part of the order, contained in Memo No. 2833 dated 19.7.2007 (Annexure-1), whereby the petitioner, who was holding the post of Superintending Engineer, has been transferred to the post of Technical Secretary to the Chief Engineer, Minor Irrigation, Ranchi, but was not allowed to join and the charge has not been handed over to him.

2. The grievance of the petitioner is that the Chief Engineer of the Department in order to accommodate respondent No. 5 is putting unnecessary impediment and not accepting his joining, though the petitioner has given his joining of his transfer. Aggrieved by the same, the petitioner has filed this writ petition. During the pendency of this writ petition, the said transfer order was modified and the petitioner has been now transferred and posted as Director, Purchase and Transport Water Resources Department, Government of Jharkhand. By way of application for amendment (IA No. 3175 of 2007), the petitioner has sought to amend the writ petition by making the prayer for quashing the said transfer order, contained in Annexure-14.

3. The writ petition and the interlocutory application are heard together at the request of the parties.

4. The grievance of the petitioner is now that he had already joined the post of Technical Secretary and the order has been acted upon and the same was given

effect to. The subsequent modification of the order transferring and posting the petitioner as Director. Purchase and Transport is illegal and, as such, the subsequent order be quashed.

5. Learned Counsel for the petitioner referred to and relied on the decision of this Court in Raghubansh Singh and Ors. v. State of Bihar and Ors. reported in 2001 (2) JCR 239 (Jhr) : 2002 (1) JLJR 89. Learned Counsel submitted that once the order has been acted upon, the same cannot be cancelled or set aside or modified.

6. Learned S.C. (Mines) appearing on behalf of the State-respondent submitted that the joining of the petitioner was not accepted on the post of Technical Secretary and, as such, the order was not given effect to. There was no question of acting upon the order as the same has been modified on the recommendation of the Establishment Committee and the petitioner is now transferred and posted as Director, Purchase and Transport Water Resources Department. Government of Jharkhand, Ranchi. The petitioner has also given his joining as Director, Purchase and Transport and his joining has been accepted.

7. In view of the said factual position. I see no force in the submissions of the learned Counsel for the petitioner that since the earlier order was given effect to and acted upon, the subsequent order is bad. The decision of this Court relied on in Raghubansh Singh and Ors. (supra) is not applicable to the facts of the instant case.

8. I, therefore, find no merit in this writ petitioner as well as interlocutory application (I.A. No. 3175 of 2007) and the same are, accordingly, dismissed.