
(2000) 09 RAJ CK 0035
In the Rajasthan High Court
Case No : Civil Writ Petition No. 2437 of 2000

Poonam Singh	Vs	APPELLANT
Union of India and Another		RESPONDENT

Date of Decision : 13-09-2000

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2001) 1 RLW 602 : (2001) 1 WLC 330 : (2001) 1 WLN 451

Hon'ble Judges : Sunil Kumar Garg, J;B.J. Shethna, J

Bench : Division Bench

Advocate : A.K. Rajvanshi, for the Appellant; H.R. Panwar, for the Respondent

Judgement

Shethna, J.

(1). The petitioner who is working as Divisional Commercial Mobile Inspector (DCMI), was transferred from Marwar Junction to Gandhidham by order dt. 25.6.99. It was unsuccessfully challenged by him before the CAT in original application which was dismissed by the CAT on 12.7.2000. Hence, this writ petition has been filed.

(2). At the out set, it must be stated that the petitioner has already been relieved. Not only that, some body else has taken over the charge in his place.

(3). The learned counsel Mr. Panwar, for the respondents relying upon three judgments of Hon"ble Supreme Court in the case of Shilpi Boss (1), Union of India vs. Abbas (2) and N.K. Singh (3), submitted that it was routine transfer, therefore, this court should not interfere with the same, particularly when the CAT after giving detailed reasons dismissed his original application. In the case reported in Mrs. Shilpi Bose and others Vs. State of Bihar and others, the Hon"ble Supreme Court held (supra) that the Court can interfere with the transfer order only if it is pointed out that there was breach of statutory rules or with malafide intention, he was transferred, otherwise not. In the case of Abbas (supra), the Hon"ble Supreme Court reiterated its stand. In case of N.K. Singh,

the Hon''ble Supreme Court held that the court can interfere when malafide is proved or infraction of any profest norms or principle was there.

(4). In the instant case, malafide is not alleged. It is not pointed out that the transfer was effected in breach of statutory rules or in infraction of profest norms or principles. The CAT in its impugned order has rightly observed that it is a routine transfer.

(5). In these circumstances, it is not possible for this Court to interfere with the such transfer order, particulary, when the petitioner has already been relieved.

(6). Before parting with the judgment, we must state that learned counsel Shri Rajvanshi submits DRM who had passed the impugned order of transfer was not competent to transfer the petitioner whose name was noted for a particular place, without approval from the Head Quarter. It appears to us that no such contention was raised before the CAT. The contention raised before the CAT was that if Mr. Sharma and Mr. Gupta could be adjusted at Ajmer, then why not the petitioner. The CAT answered that submission by observing that if Mr. Sharma and Mr. Gupta were transferred on the posts at Ajmer, then the petitioner cannot claimed to be transferred at Ajmer.

(7). The post of DCMI is a sensitive post and under the Rules, one cannot be kept on such sensitive post for more than five years. In the instant case, the petitioner continued on that post at Marwar Junction for more than nine years.

(8). Under the circumstances, when by way of routine transfer, the petitioner was transferred from Marwar Junction to Gandhidham, then this Court would not interfere with such order, particularly when the CAT refused to interfere with the same in the original application filed before it.

(9). Hence, the present writ petition fails and is hereby dismissed.

(10). At this stage, a request is made by Mr. Rajvanshi that as ordered by the CAT, the respondents be directed to consider and decide the representation of the petitioner. There should not be any difficulty on the part of the competent authority to consider the case of the petitioner for transfer. The same shall be decided in accordance with law.