
(2008) 02 PAT CK 0148
In the Patna High Court
Case No : CWJC No. 2522 of 2008

Prabhat Kumar Jha

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 26-02-2008

Acts Referred:

Citation : (2008) 2 PLJR 452

Hon'ble Judges : Navin Sinha, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Navin Sinha, J.—Heard learned counsel for the petitioner and learned counsel for the State. Assailing the order of transfer, learned counsel has urged that the order of transfer is premature within less than a year; that the order was punitive, it was passed on a complaint made by the M.L.A. and lastly that the Respondents have indicted the petitioner casting a stigma on him in the last paragraph of the order of Respondent No. 4 in his order dated 22.7.2007 in justification of the transfer.

2. In support of his submission, he relies upon a judgment of this Court in Baldeo Choudhary and Others Vs. State of Bihar and Others, .

3. The scope for interference with orders of transfer, which are basically administrative orders, in writ jurisdiction are extremely limited and stand well explained by now. Unless there be any violation of statutory rule or regulations, or there be serious allegations of mala fide, the transfer may have resulted in loss of status and pay or that the order was passed by a person not competent, there shall be little occasion for the writ Court to interfere. Even if administrative guidelines have been violated that at best may furnish a cause to submit a representation but cannot found a legal claim to challenge the order of transfer.

4. In the case of Baldeo Choudhary & Ors. (supra) relied by the petitioner a Bench of this Court held that the order of transfer on the recommendation of the

Minister Incharge is not valid; that there must be a valid reason for premature transfer; that if no ground is shown to exist with regard to such a premature transfer, the doctrine of malice in law shall be invoked.

5. It will not be the jurisdiction of this Court to examine the sufficiency of the administrative grounds for a transfer. From the counter affidavit of the Respondents, it is apparent that the Respondents have applied their mind for reasons explained therein to order the transfer of the petitioner on administrative grounds. As far as this Court is concerned, the matter ends there.

6. In Mohd. Masood Ahmad Vs. State of U.P. and Others, considering the allegations of transfer at the instance of M.L.A., it was held that even if the allegations be correct that will not vitiate the transfer. It was the duty of the representative of the people in the Legislature to express the grievance of the people and if there is any complaint against an official the State Government is certainly within its jurisdiction to transfer such employee.

7. In so far as punitive aspect of the matter is concerned in Union of India (UOI) and Others Vs. Sri Janardhan Debanath and Another, the allegations for transfer were far more serious of assault, abuse and manhandling within the office premises. The Apex Court held that the fact that there may not have been any departmental proceedings of a guilt of the delinquent was not necessary for effecting a transfer on the same ground. That two were entirely different matters. Transfer was effected to enforce disciplined decency and decorum in public service essentially to maintain quality service, administrative exigency and ensure smooth functioning of the administration. Whether they were of a nature to warrant any disciplinary action is a matter to be considered in the departmental proceeding. All that is required is a prima facie satisfaction of the administrative authority based on contemporary representation about the occurrence complained of. That there was no need for elaborate enquiry to enforce decorum and probity.

8. Coming to the last submission of the petitioner with regard to the letter dated 22.7.2007 of respondent No. 4, this Court upholds the submission of the petitioner. It is made clear that the conclusion in the ultimate paragraph shall have no effect on the petitioner's service and shall be confined in its applicability to the present transfer only unless the Respondents choose to proceed in accordance with law. The writ application is, therefore, dismissed in so far as the challenge to the order of transfer is concerned, but, allowed only to the extent indicated above.