
(2014) 09 JH CK 0082
In the Jharkhand High Court
Case No : W.P.(S) No. 3390 of 2014

Raj Gopal Gupta and Others

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 02-09-2014

Acts Referred:

Citation : (2015) 1 JLJR 26

Hon'ble Judges : Aparesh Kumar Singh, J

Bench : Single Bench

Advocate : Anil Kr. Sinha and Shashank Shekhar, Advocates for the Appellant;
Prashant Kr. Singh and Ashish Kr. Shekhar, Advocates for the Respondent

Judgement

Aparesh Kumar Singh, J.—Heard counsel for the parties. The petitioner No. 2 is pursuing the writ petition after the petitioner No. 1 has sought not to press this application earlier, as has been recorded in the order dated 15.7.2014.

2. The grievance of the petitioner is that by the impugned notification dated 30.6.2014, he has been transferred from the post of Key Village Officer, Dhanbad to Touring Veterinary Officer, Khajuri, Jamtara. It is submitted that this is a third transfer of the petitioner successively, as per notification dated 30.6.2011, from the post of K.V.O., Dhanbad to T.V.O., Chatra, thereafter on 8.12.2012 from the post of T.V.O., Chatra to K.V.O., Dhanbad. The petitioner is said to have remained for one and half year at the present place of posting at Dhanbad. These successive transfers have adversely affected the petitioner.

3. Recommendation of the Establishment Committee has been brought on record by way of supplementary counter affidavit by the respondent filed on 12.8.2014 wherein it has been pointed that the petitioner's name is at serial No. 171. According to the respondents, the previous posting of the petitioner have been indicated in the said minutes, as per which, he was posted at Dhanbad from 30.12.2006 to 31.7.2011, at Chatra from 1.8.2011 to 13.12.2012 and thereafter again at Dhanbad from 14.12.2012 till issuance of the impugned notification. The

Establishment Committee recommended for his transfer as Block Animal Husbandry Officer, Sarvan, Deoghar on the ground that he had remained in one commissionerary for more than six years. According to the respondents, resolution No. 2476 dated 21.11.2006 clearly indicates that an officer under the department who has remained in one division for more than six years, has to be transferred out of the commissionerary. Therefore, the petitioner having remained at one commissionerary for more than six years, undisputedly has been recommended for transfer out of North Chhotanagpur Division to Santhal Paragana Division. Petitioner, however instead of being posted at Deoghar, as recommended, has been posted as T.V.O., Jamtara which lies within Santhal Paragana Division. The order of transfer is in consonance with the policy of the respondent department.

4. Learned Senior Counsel for the petitioner has referred to the instances of persons at para-4 of the rejoinder dated 21.8.2014 to the supplementary counter affidavit of the respondents. As per statements made therein which have been shown from the minutes of the Establishment Committee (Annexure-C to the supplementary counter affidavit), there are instances of persons at serial Nos. 6, 69 and 86 and few other where despite the recommendation of the Establishment Committee for their transfer to different commissionerary on the uniform yardstick, these persons had remained at one place within one commissionerary or in the same district. Therefore, uniform yardstick as laid down in the departmental resolution dated 21.11.2006, has not been followed resulting in discrimination vis-?-vis the petitioner and others. Such course on the part of the respondents, creates lot of heart burning and is also discriminatory as not being in conformity with the uniform policy of transfer and posting resolved by the Government itself.

5. As per the respondent State counsel, the department has taken note of such instances of persons where certain officers or veterinary doctors have been kept at the same place. Reference has been made to the statements made at para-4 of the second supplementary counter affidavit of the respondents in reply to the rejoinder of the petitioner, specially para-4 which was referred to hereinabove. According to the respondents, such cases are to be taken up in due course.

6. This Court after hearing the counsel for the parties and in the aforesaid factual backdrop of the impugned exercise undertaken by the respondent department, finds that it is not in dispute that the petitioner has remained within one commissionerary for a period of more than six years and thereafter the Departmental Establishment Committee made recommendation for his transfer to another commissionerary. The petitioner has thereafter been posted within the Santhal Paragana Division at Jamtara in consonance with the recommendation of the Departmental Establishment Committee, though not at Deoghar where it had recommended, but of course within the Santhal Paragana Division. The policy of the respondent State in the case of the petitioner therefore, appears to have been followed. However, petitioner has shown instances of such officers/Medical

Officers who have been kept in the same district or within the same commissionary despite the recommendation of the Establishment Committee which was not in conformity with the resolution of 21.11.2006. Respondents however made a categorical statement, as indicated hereinabove, that they are going to take up those cases in due course. In such circumstances, it is expected from the respondent authorities of the State to act in conformity with their own policy guidelines and not to give rise to instances of such violation of the policy guidelines which may not only cause heart burning, but may also give rise to discrimination vis-?-vis similarly situated persons. Given the stand taken by the respondents, it is therefore expected that they would take corrective steps to ensure that if there are such anomaly which have been detected in the transfer exercise undertaken vide notification dated 30.6.2014, they are rectified within a reasonable time. It is also expected that the respondent department would keep in its mind while undertaking such exercise in future that there is uniformity in the observance of the policy guidelines of such transfer and posting subject to valid exception which may be supported by due reasons on administrative grounds and/or in larger public interest. This Court does not find any infirmity in the impugned notification, so far as the petitioner is concerned. The writ petition is dismissed The interim order dated 15.7.2014 stands vacated.