
(2009) 03 CHH CK 0002
In the Chhattisgarh High Court

Ram Kumar Rathore

APPELLANT

Vs

State of Chhattisgarh, Additional Secretary (C.G.) and
Chotelal Dahire Sub Engineer

RESPONDENT

Date of Decision : 20-03-2009

Acts Referred:

Citation : (2009) 03 CHH CK 0002

Hon'ble Judges : Satish K. Agnihotri, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Satish K. Agnihotri, J.—The grievance of the petitioner in this petition is that the petitioner has been transferred on 10.10.2008 (Annexure P/1) from Janpad Panchayat Pathariya, District Bilaspur to Janpad Panchayat Fingeshwar (Rajim), District Raipur. The petitioner was relieved on 8.10.208 pursuant to the order dated 27.6.2008 to join at Janpad Panchayat Pathariya. The order is vitiated on account of the fact that immediately after joining the office at Pathariya on 10.10.2008, the petitioner was transferred. Learned Counsel submits that the petitioner wanted to join the new place of posting pursuant to the order dated 27.6.2008, however, on account of the fact that the petitioner was not relieved in time, the petitioner could not join. Not joining at the new place of posting is not the fault of the petitioner but this situation was created by the government authorities.

2. Shri Singh, learned Counsel appearing for the respondent No. 3 submits that the respondent No. 3 was posted at Pathariya on the basis of order dated 01.09.2008 (Annexure R/3-1) as one Shri T.P.Patel, Sub Engineer/Assistant Engineer was looking after the work at Pathariya in addition to his own work. Therefore, the government thought it proper to post an officer on the vacant post at Pathariya before relieving the petitioner.

3. Smt. Ghai, learned Panel Advocate appearing for the State/respondents 1 and

2 adopts the arguments advanced by learned Counsel for the respondent No. 3. In addition, she submits that the petitioner could not be relieved on account of certain problems. After having come to know that the respondent No. 3 has already been posted at Pathariya, a new order was passed posting the petitioner at Fingeshwar (Rajim) District Raipur. Smt. Ghai further submits that there is no mala fide or ill will against the petitioner. The order is passed strictly in public interest keeping in view administrative exigency. She further submits that though the order was passed on 01.09.2008, but the respondent No. 3 joined on 13.10.2008 (Annexure R/3-3).

4. Be that as it may, it is well settled principle of law that transfer is an incident of service. The Supreme Court, in catena of decisions has held that an employee has no legal right to be posted at any one particular place of his choice. (See State of U.P. and Anr v. Siya Ram and Anr. and Rajendra Roy v. Union of India and Anr).

5. In Gautam Prasad Naik v. State of C.G. and Ors. this Court held as under:

6. it is well settled principle of law that transfer is an incidence of service and it is for the employer to decide as to where a particular officer/employee be posted keeping in view public interest as well as administrative exigency. This Court has limited jurisdiction to interference in the transfer matter and this Court can interfere only in the cases of proved mala fide, non-competence of authority passing the transfer order and transfer order not being in conformity with the rules and regulations.

6. Further, in Mohd. Firoz Khan v. State of C.G. and Ors. this Court has held that legal position in case of transfer is well established that Court should exercise its jurisdiction only in case of proved mala fide, non-competence of the officer passing the order, violation of rules and regulations, applicable to the employees.

7. The petitioner has failed to prove any mala fide, lack of competence of the officer passing the order, or infraction of any rules or regulations.

8. In view of the foregoing and applying the well settled principles of law to the facts of the case, this petition has no merits and is accordingly dismissed. No order as to costs.