
(2019) 01 RAJ CK 0146

In the Rajasthan High Court

Case No : Civil Writ No. 428 Of 2019, 14355 Of 2018

Sampat Tak And Ors

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 18-01-2019

Acts Referred:

Citation : (2019) 01 RAJ CK 0146

Hon'ble Judges : Arun Bhansali, J

Bench : Single Bench

Advocate : D.S. Sodha, C.P. Trivedi, D.S. Sodha

Final Decision : Dismissed

Judgement

SBCWP No.14355/2018 has been filed by petitioner -Kalpana Gupta aggrieved against the order dated 13.08.2018 passed by the respondents, whereby the petitioner has been transferred from Shahpura, Jodhpur to Dhawa, Jodhpur and order dated 14.09.2018 passed by the Rajasthan Civil Services Appellate Tribunal, Circuit Bench, Jodhpur ('the Tribunal'), whereby the appeal filed by the petitioner therein has been rejected.

By order dated 24.09.2018, this Court noticing the facts of the case and specially the posting history of respondent No.5 - Sampat Tak filed as Annexure-4 indicating that he has been posted at Jodhpur since 1999 and the petitioner, who was posted two years back only and as the Tribunal had dismissed the appeal indicating that she was transferred after two years, the effect and operation of order dated 13.08.2018 (Annex.3) qua the petitioner and the order dated 13.09.2018 passed by the Tribunal were stayed.

As the order dated 13.08.2018 was stayed, the State by order dated 19.12.2018, ordered for transfer of Mr. Sampat Tak to Dhawa and ordered for posting of Smt. Kalpana Gupta at Shahpura, Jodhpur, which led to filing of SBCWP No.428/2019 by the petitioner - Sampat Tak questioning the validity of order dated 19.12.2018.

Both the writ petitions were got listed together and parties have been heard.

A perusal of the record indicates that Smt. Kalpana Gupta was posted at Shahpura, Jodhpur in the month of July, 2016; on 30.05.2018 Mr. Sampat Tak was made APO and on 06.06.2018 he was posted at Dhawa and on 13.08.2018, the order was passed transferring Smt. Kalpana Gupta to Dhawa and Mr. Sampat Tak to Shahpura, Jodhpur.

Smt. Kalpana Gupta challenged the said order before the Tribunal and as noticed, the Tribunal by merely observing that she has served for two years at Shahpura, Jodhpur, held that her transfer cannot be interfered with.

The said determination made by the Tribunal in the overall facts and circumstances of the case, wherein specific challenge was laid based on the transfer of Mr. Sampat Tak in place of the petitioner, rather petitioner being transferred to accommodate Mr. Sampat Tak, the Tribunal was required to deal with the said aspect and as from the material, it is apparent that while Mr. Sampat Tak has been serving in Jodhpur since 1999, dismissal of the appeal filed by Smt. Kalpana Gupta, who had served for two years at Shahpura, Jodhpur cannot be approved.

Learned counsel appearing for Mr. Sampat Tak did not dispute the fact that he has been serving at Jodhpur since 1999, however, it was sought to be watered down by submitting that he has worked on different posts on account of promotions granted, however, the fact remains that he has served continuously at Jodhpur since 1999 and therefore, Smt. Kalpana Gupta could not have been transferred just for accommodating Mr. Sampat Tak only, which appears to be the only reason for passing of order dated 13.08.2018.

Once the order dated 13.08.2018 has been stayed by this Court, two persons could not have been permitted to work on the same post and therefore, the State was justified in transferring the petitioner Sampat Tak to Dhawa which order also cannot be faulted.

In view of above discussion, SBCWP No.14355/2018 filed by Smt. Kalpana Gupta is allowed. The order dated 13.08.2018 passed by the respondent-State qua petitioner - Kalpana Gupta and order dated 14.09.2018 passed by the Tribunal are quashed and set-aside.

As there is no substance in SBCWP No.428/2019 filed by petitioner Sampat Tak, the same is, therefore, dismissed. However, petitioner - Sampat Tak would be free to make a representation to the respondents seeking appropriate posting based on the reasons now sought to be projected in the present writ petition. If such a representation is made by the petitioner, the respondents would deal with the same appropriately and expeditiously.