
(2004) 06 JH CK 0005

In the Jharkhand High Court

Case No : Writ Petition (S) No. 1286 of 2004

Shambhu Paswan

APPELLANT

Vs

Central Mine Planning and Design Institute Ltd. and Others

RESPONDENT

Date of Decision : 21-06-2004

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2004) 3 JCR 390 : (2004) LLR 753 : (2004) 3 LLJ 243

Hon'ble Judges : M.Y. Eqbal, J

Bench : Single Bench

Advocate : P.K. Sinha, for the Appellant; K.B. Sinha, for the Respondent

Final Decision : Dismissed

Judgement

M.Y. Eqbal, J.—Heard Mr. P.K. Sinha, learned senior counsel appearing for the petitioner and Mr. K.B. Sinha, learned senior counsel appearing for the respondents.

2. The petitioner has prayed for quashing the transfer order dated 22.01.2004, whereby he has been transferred from the Safety Division, CMPDI, Ranchi to RI-II, Dhanbad.

3. Petitioner's case is that he was appointed as Junior Executive Trainee in 1975 and after his promotion he is working on the post of Deputy Chief Engineer in the Safety Division of Central Mine Planning and Design Institute Limited (in short CMPDI). It is stated that one Shri (Dr.) Bindu Charan Rohi Das a Senior Officer of CMPDI and official in-charge of SC/ST employees of the CMPDI has to look after the interest of SC/ST employees officially besides his routine work. While in service the petitioner always ventilated his grievance before the higher officer for giving effect to the order for his promotion from 1994 instead of 1998. It is stated that for the purpose of disposal of his pending representation he alongwith Dr. Bindu Charan Rohi Das went to meet respondent No. 4, Personnel Manager, CMPDI, Ranchi. The respondent No. 4 not only rebuked the petitioner and Dr.

Rohi Das rather abused like anything. The petitioner and Dr. Rohi Das lodged an FIR on 22.1.2003 whereupon the police after its enquiry found the allegation correct and suggested to initiate a proceeding u/s 107 of Cr PC. It is contended that another FIR was also lodged by the petitioner under the SC/ST Prevention of Atrocities Act and the case is pending. It is alleged that in order to get rid of the criminal cases respondent No. 4 managed the other higher officers to issue a transfer order of the petitioner alongwith seven others.

4. Mr. P.K, Sinha, learned senior counsel appearing for the petitioner assailed the impugned order of transfer as being illegal and malafide. Learned counsel submitted that the impugned order of transfer was passed only for the purpose of frustrating the criminal case filed against respondent No. 4.

5. Mr. K.B. Sinha, learned senior counsel appearing for the respondents drawn my attention to the counter-affidavit and submitted that by the impugned order of transfer eight officials have been transferred from one place to another place and all the officials except the petitioner have already joined at their place of posting. The petitioner remained posted in one place for about 13 years. Learned counsel submitted that pursuant to the order of transfer, petitioner was released on 3.2.2004 vide office order dated 3.2.2004. The release order was sent to the office of the petitioner but the same was returned since he was not available. Subsequently, the copy of the release order was sent through a peon to his residence but he refused to receive the same. Thereafter, a FAX message was sent to the Regional Director, CMPDI, to confirm that whether the petitioner has reported for his duty at RI-II, Dhanbad.

6. It is well-settled that the transfer is an incidence of service and this Court should be very slow in interfering with the order of transfer unless the same is mala fide and violative of statutory rules. It is not disputed by the petitioner that he remained in one place for about 13 years. Merely because FIR was lodged by the petitioner against respondent No. 4, the order of transfer cannot be held to be malafide, particularly, when the said order of transfer was issued by the higher authority.

7. For the aforesaid reason, I do not find any merit in this writ petition which is accordingly dismissed. Petition dismissed.