
(2011) 11 CHH CK 0057
In the Chhattisgarh High Court
Case No : Writ Petition S. No. 2688 of 2011

Shri Dhanmad Sai Dehari

APPELLANT

Vs

State of Chhattisgarh and Others

RESPONDENT

Date of Decision : 04-11-2011

Acts Referred:

Citation : (2011) 11 CHH CK 0057

Hon'ble Judges : Satish K. Agnihotri, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Honble Shri Satish K. Agnihotri, J.—Challenge in this petition is to the order dated 05.05.2011 (Annexure P-1), passed by the respondent No. 4, whereby, the representation of the petitioner to quash the transfer order dated 01.01.2011 was rejected.

2. The indisputable facts, in brief, are that the petitioner, working as Station House Officer in Police Station Torwa, Bilaspur, was transferred to District Bijapur by order dated 01.01.2011. Being aggrieved, the petitioner preferred a writ petition before this Court in W.P.(S) No. 78/2011 Shri Dhanmad Sai Dehari v. State of Chhattisgarh & Another Annexure P-6. This Court, after hearing learned counsel appearing for the parties, granted liberty to the petitioner to make a representation, on his request, to consider his case under the provisions of the Chhattisgarh Police Act, 2007. It was further observed that in the event, the representation is made, the same should be considered and decided within a period of two weeks from the date of receipt of the representation. Further, if the petitioner has not been relieved pursuant to the order dated 01.01.2011, he may not be relived till his representation is considered and decided by the Board.

3. Accordingly, the representation was made on 24.01.2011 to the Police Establishment Board. The Superintendent of Police, Bilaspur, by order dated 05.05.2011 (Annexure P-1) informed the petitioner that Inspector General of

Police (Administration) Police Headquarter, Raipur, has considered the representation of the petitioner and the same has been rejected. Thus, this petition.

4. Shri Otwani, learned counsel appearing for the petitioner submits that the petitioner was initially appointed on the post of Sub Inspector in the year 1984. The petitioner was posted in various places of Bastar region, which was naxalite affected area from the year 1988 to 2000. The petitioner after having completed twelve years of service in Bastar region was transferred to District Durg and he was posted there for a period of seven years. Sometime in the year 2008, the petitioner was transferred to District Bilaspur and was posted as Station House Officer of Torwa Police Station in the month of August, 2008.

5. Shri Otwani, further submits that the brother-in-law of the petitioner was killed by naxalites in the year 2007, as is evident from the FIR (Annexure P-4). It is further submitted that under the transfer policy dated 01.04.2006 issued by the Home (Police) Department, clause 6(i) clearly provides that if a Sub Inspector or Inspector has served ten years satisfactorily in the naxalite affected areas, the next posting may be done in one, out of two ranges desired by the concerned Sub Inspector or Inspector. The petitioner has served for more than ten years without any protest, thus, the posting should be on his choice in one of the two ranges selected by him. Shri Otwani, next submits that the widow sister of the petitioner is also dependent upon the petitioner. The petitioner has also not been communicated a reasoned rejection order.

6. On the other hand, Shri Sao, learned counsel appearing for the State submits that the representation of the petitioner was considered by a detailed speaking order dated 26.02.2011 (Annexure R-1) passed by the Director General of Police and the same was communicated by the impugned order. Shri Sao, further submits that the petitioner was posted as Sub Inspector in Bastar range, as aforestated. However, after his promotion to the post of Inspector, he was never posted in any of the naxalite affected area.

7. In respect of his grievance of threat to his life and his family members, he has not produced any document. Having regard to the special circumstances, wherein, the entire State is suffering on account of naxalite activities, it has been decided to post the competent employee in the area.

8. I have perused the transfer policy dated 01.04.2006 (Annexure P-5), and considered the rival contentions advanced by the learned counsel for the parties. In clause 4 (3) of the transfer policy, it is provided that an officer has to spend minimum five years in the naxalite affected areas. After promotion, the first posting for three years be made in the naxalite affected areas. It is further provided in sub clause (5) of clause 4 that before promoting the Inspector to the post of Deputy Superintendent of Police, the Inspector must spent three years in the naxalite affected area and two years in other areas.

9. It is an admitted position that the petitioner had served for more than ten

years as Sub Inspector of Police. He was promoted on 09.05.2005 to the post of Inspector and thereafter, he was never posted in naxalite affected area. Now the posting of the petitioner as Inspector in the naxalite affected area is neither erroneous nor illegal.

10. The reliance of the petitioner on *S. Pratap Singh Vs. The State of Punjab*, in support of his contention that since each and every para of the petitioner has not been specifically denied, the response of the State/respondents may not be taken as denial to the averments made by the petitioner. In the case on hand, when the same averments have been repeated in several paras, it is not necessary to reply every para specifically when the respondent has replied to each and every issue involved in the case. Thus, the contention of the learned counsel for the petitioner in this respect is rejected.

11. There is no quarrel on the next contention that administrative order must be supported by reasons. In the case on hand, Annexure R-1, the order passed by the Director General of Police on the representation of the petitioner is reasoned one in consonance with the principles of natural justice.

12. For the reasons mentioned hereinabove, I do not find any infirmity in the impugned order, warranting interference of this Court.

13. It is a trite law that transfer/posting is an incidence of service. The Court should not interfere with the transfer/posting order unless there is malice, infringement of statutory rules and regulations. In the case on hand, the petitioner has failed to establish any of the aforesaid grounds. The employee may be posted anywhere at the instance of the employer in public interest and administrative exigency. Further, it is for the Government to post another person if any vacancy arises on account of transfer/posting of an employee. Thus, the impugned order warrants no interference. See *E.P. Royappa v. State of Tamil Nadu* and another, *Shilpi Bose (Mrs.) and others v. State of Bihar* & another, *State of Madhya Pradesh and another v. S.S. Kourv and others*, *Mohd. Masood Ahmad v. State of Uttar Pradesh & Others*, *Chief Commercial Manager, South Central Railway, Secunderabad & Others v. G. Ratnam & Others* and *Airports Authority of India v. Rajeev Ratan Pandey & Others*.

14. Applying the well-settled principles of law to the facts of the case on hand and for the reasons mentioned hereinabove; there is no merit in the case.

15. Accordingly, the writ petition is dismissed. No order as to costs.