

(1978) 05 RAJ CK 0008
In the Rajasthan High Court
Case No : Civil Writ Case No. 93 of 1978

Sikandar Khan

APPELLANT

Vs

Actg. C.J. Rajasthan High Court

RESPONDENT

Date of Decision : 09-05-1978

Acts Referred:

Citation : (1978) WLN 154

Hon'ble Judges : D.P. Gupta, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

D.P. Gupta, J.—This writ petition has been filed challenging an order of transfer. The petitioner is an LDC in the Rajasthan High Court and he was formerly employed at the main seat of the High Court, but by the order dated September 22, 1977 he was transferred to the High Court Bench at Jaipur, in the same capacity.

2. The contention of the learned Counsel for the petitioner is that the petitioner was transferred by way of punishment and further that the transfer order was passed mala fide. In my view, the mere transfer of an employee without anything more cannot be considered as a punishment. In the present case, neither the order of transfer of the petitioner nor the circumstances attendant there to show that it was intended that the petitioner should be penalised and the transfer does not appear to have been effected by way of punishment.

3. As regards mala fides, the allegations made by the petitioner are quite vague. The only two allegations which appear to have been made by the petitioner are (a) that the petitioner had filed an appeal against his alleged super session on September 19, 1977 and the transfer was effected because on account of the filing of the said appeal, the then Acting Chief Justice of this Court felt displeased, (b) that the petitioner was associated with an official, Shri. Jai Dayal, who was degraded and transferred by the then Chief Justice, as he was

displeased with him and the petitioner was also put to the same fate in consequence and was transferred on that ground.

4. So far as the first allegation is concerned there appears to be no valid reason to accept the petitioner's contention, The appeal against the super session of the petitioner, by promoting some other LDCs as UDCs, might have been filed by the petitioner during the same period, but the petitioner has not given any reason at all as to why the then Acting Chief Justice would have felt displeased on the petitioner's filing an appeal in the promotion of some UDCs It has not been alleged by the petitioner that the Hon''ble the Acting Chief Justice was interested in any one LDC of other official. More over, either the former Deputy Registrar (Administration) nor the then Acting Chief Justice have been personally made parties to the writ petition and such an allegation appears co have been made recklessly and is without any substance The same is, therefore, rejected.

5. So far as the other allegation contained in para 17 of the writ petition is concerned, it was pointed out to the learned Counsel for the petitioner that the concerned official, Shri. Jai Dayal, has sine a then been restored and has also been promoted and if the transfer of the petitioner would have anything to do with the transfer of that official, then the same would have been undone in the same manner as Hon''ble the Acting Thief Justice did in the case of the concerned official The matter of transfer of the petitioner appears to have been examined by the successive Acting Chief Justices, on the representations of the petitioner, and as no malafides have been discovered, the successor Acting Chief Justice did not consider it proper to set aside the order of transfer of the petitioner.

6. It may also be printed out that the order of the petitioner's transfer appears to have been made in the ordinary course, as one UDC working at the Jaipur Bench was transferred from Jaipur to the main seat at Jodhpur and by the same order the petitioner appears to have been transferred in his place from Jodhpur to Jaipur. It appears that the petitioner tried to make a mountain out of a mole hill I am not impressed with the contention of malafides which is made recklessly now in numerous cases. It is rather an unfortunate trend, which has recently developed and some times the allegations of malafides are made merely to cause prejudice or in the hope that whether they have any basis or, factor not, some of it may stick. The petitioner was given several opportunities to make a representation before the Hon''ble Acting Chief Justice and if his representation has not succeeded, it is apparent that the transfer order was made in the ordinary course and the petitioner has not been able to substantiate his challenge in respect of that order. The writ petition consequently has no merit and is dismissed.