
(2011) 01 RAJ CK 0082
In the Rajasthan High Court
Case No : Civil Writ Petition No. 101 of 2011

Smt. Lila Jain

APPELLANT

Vs

Rajasthan Civil Services and Others

RESPONDENT

Date of Decision : 12-01-2011

Acts Referred:

Citation : (2011) 01 RAJ CK 0082

Hon'ble Judges : Mohammad Rafiq, J

Bench : Single Bench

Judgement

Mohammad Rafiq, J.—This writ petition has been filed by Petitioner assailing order of Tribunal dated 22.12.2010 by which appeal, which she filed against order of her transfer dated 10.08.2010, was admitted and notices were issued for appeal as well as interim relief, but no interim order was passed.

2. Contention of learned Counsel for Petitioner is that Petitioner was transferred from Government Senior Secondary School, Ganvar, District Tonk to Government Girls Secondary School, Telipada, Jaipur, vide order dated 19.07.2010. Petitioner assumed her duties of post of Headmistress, Government Girls Secondary School, Telipada, Jaipur on 22.07.2010. At same time, Respondents passed another order on 19.07.2010 by which Respondent No. 3 Smt. Manju Soheta was transferred from Government Girls Secondary School, Durgapura, Jaipur to Ugariawas, District Jaipur. Respondent No. 3 did not join her duties at Ugariawas and her transfer order was cancelled and she was allowed to continue at Durgapura, Jaipur. Respondent No. 3 happens to be wife of S.S. Soheta, who is posted as Deputy Secretary in Education Department, Government Secretariat, Jaipur. It was thereafter that she, on her own request, was transferred from Durgapura, Jaipur to Government Girls Secondary School, Telipada, Jaipur and due to this reason Petitioner, who came for first time in Jaipur city and working in Jaipur only since 22.07.2010, in a short span of 19 days transferred from Government Girls Secondary School, Telipada, Jaipur to Ganvar, District Tonk, where she had already worked for last five years before. Petitioner for entire

service career of 17 years has served in rural areas and out of Jaipur, whereas Respondent No. 3 has throughout remained at Jaipur and has been accommodated Jaipur only because her husband happens to be posted as Deputy Secretary in Education Department, Government Secretariat, Jaipur, whereas Petitioner's husband is an employee in a private bank and has been transferred and posted at Jaipur only recently in April, 2010 and they have come to be posted together after a very long time. But that transfer order of Petitioner has been suddenly changed which is because she has no one to influence decision making process of Government.

3. This matter was last listed before the court on 07.01.2011. When learned Counsel appearing for Petitioner was confronted with situation that how this Court entertain and decide the petition on merits when already appeal filed by Petitioner against her transfer order has been admitted and pending before Tribunal, it was given out by learned Counsel that he may be permitted to withdraw that appeal and on that understanding matter was deferred for today. Learned Counsel has produced certified copy of order of Tribunal dated 10.01.2011 to show that he has withdrawn said appeal.

4. This Court is conscious of fact that interference in transfer matter can be made only in two situations which are by now well defined parameters by number of Supreme Court judgments that either order must have been passed in violation of some statutory rules or on allegation of proven mala-fide.

5. In present case apparently it looks like that Respondent No. 3 has had benefit of fact that her husband happens to be serving Education Department itself in capacity of Deputy Secretary but normally there can be exception for accommodating her at Jaipur but the court is constraint to observe that this should not have been done at cost of Petitioner, who came to be posted at Jaipur only recently i.e. only 19 days before and she was transferred back to same place from where she had already served for five years.

6. In peculiar facts of present case, I leave it to wisdom of the Chief Secretary to Government of Rajasthan, Jaipur to pass appropriate order, to whom Petitioner shall make a representation within three days and such representation shall be decided by him within two weeks by passing appropriate fresh order with regard to posting of Petitioner at Jaipur. It is expected that justice shall be done to Petitioner and wrong already done to her shall be undone.

7. The writ petition is disposed of accordingly.