
(2012) 06 CHH CK 0045
In the Chhattisgarh High Court
Case No : Writ Appeal No 303 of 2011

State of Chhattisgarh and others	Vs	APPELLANT
U R Singh and others		RESPONDENT

Date of Decision : 18-06-2012

Acts Referred:

Chhattisgarh High Court (Appeal to Division Bench) Act, 2006 — Section 2
Madhya Pradesh Re-organisation Act, 2000 — Section 70

Citation : (2012) 06 CHH CK 0045

Hon'ble Judges : Gulam Minhajuddin, J;Abhay Manohar Sapre, J

Bench : Full Bench

Advocate : A.S. Kachhawaha Dy A.G. for the State, for the Appellant; Anup Majumdar counsel for respondent No. 1 Shri K.N. Nande counsel for respondents 2 and 3 Shri S K Tiwari counsel for re, for the Respondent

Final Decision : Dismissed

Judgement

Hon"ble Mr. Abhay Manohar Sapre, J.—Heard. This is an appeal filed by the writ petitioner of W.P. (S)No. 2596 of 2010 u/s 2 of the Chhattisgarh High Court (Appeal to Division Bench) Act 2006 against order dated 28.02.2011 passed in aforementioned writ petition.

2. By impugned order, the learned Single Judge (writ Court) allowed the writ petition filed by the writ petitioner (respondent No. 1 herein) in part and quashed the orders by which he was asked to go to State of M.P from State of Chhattisgarh.

3. So the question which arises for consideration in this appeal is whether learned Single Judge was justified in allowing the writ petition filed by the writ petitioner (respondent No. 1 herein) thereby justified in quashing the order by which writ petitioner was asked to go State of M.P from the State of Chhattisgarh ?

4. Facts of the case need mention in brief which lie in a narrow compass.

Respondent No. 3 is a Council constituted by the State of M.P. by and under the name "M.P. Sports Council" (for short hereinafter called "the Council"). The Council is constituted by the State with a sole object of encouraging, arranging and developing the activities of sports in the State of M.P. amongst the youths and sports lovers of State of M.P. This Council is fully controlled and managed by the State authorities and is also funded by the State money.

5. Respondent No. 1 is an employee of Council who is working as Badminton Coach. He was appointed on this post on 20.7.1976 and later absorbed as District Sports and Youth Welfare Officer. He was then transferred to several districts falling in the Chhattisgarh area such as District Kanker, Korba, Durg and lastly at Rajnandgaon.

6. In the year 2000, the Parliament enacted a law called "M.P. Re-Organisation Act 2000" (for short hereinafter called "The Act"). By virtue of the provisions of this Act, a new State known as "State of Chhattisgarh" was formed out of the existing State of M.P. This new State of Chhattisgarh came into existence on 01.11.2000 - being the appointed day specified in the Act. In terms of Section 70 of the Act, every person who immediately before the appointed day (01.11.2000) is holding or discharging duties of any post or office in connection with the affairs of the existing State of M.P. in any area which on that day falls within any of the successor State, then he shall be deemed on and from that day to have been duly appointed to the post or office by the Government of or any other appropriate authority in that successor State.

7. It is not in dispute that on 01.11.2000, and even prior to this date, the writ petitioner (respondent No. 1) was posted at Rajanadgaon and was discharging his duties attached to his post at Rajnandgaon. It is also not in dispute that District Rajnandgaon has become the part of State of Chhattisgarh by virtue of provisions of the Act on and after 01.11.2000. In terms of section 70, and by virtue of deeming fiction, contained therein, the writ petitioner thus was considered to have been duly appointed by the Government of Successor State or authority as the case may be.

8. On 30.4.2010, the Upper Sachiv, Sports and Youth Department of Chhattisgarh State asked the Director of the said ministry to send the respondent back to State of M.P. as per the Rules. The letter reads as under :-

(Vernacular matter deleted)

9. Similarly on 10.5.2010, the Director Sports and Youth welfare department Chhattisgarh (annexure p-3) wrote a letter to SP Rajnandgaon directing him to ensure that writ petitioner is sent to the office of respondent no 3 (Council). The letter reads as under:-

(Vernacular matter deleted)

10. It is against these two letters, the respondent became aggrieved and filed a writ petition, out of which, this appeal arises and challenged its legality and

correctness. The writ Court by impugned orders allowed the writ petition and quashed the two letters referred above.

11. Section 70 of the Act reads as under:-

70. Provisions as to continuance of officers in same post.- (1) Every person who, immediately before the appointed day is holding or discharging duties of any post or office in connection with the affairs of the existing State of Madhya Pradesh in any area which on that day falls within any of the successor State, and shall be deemed, on and from that day, to have been duly appointed to the post or office by the Government of, or any other appropriate authority in, that successor state:

Provided that nothing in this section shall be deemed to be prevent a competent authority, on and from the appointed day, from passing in relation to such person any order affecting the continuance in such post or office.

12. In our considered view looking to the constitution, creation, management and activities of the respondent No. 3 - Council, it can be safely concluded that the Council being a body which is dealing with the affairs of the State so also respondent No. 1 being in the employment of Council is a State or/and authorities of the State and hence such Council can be subjected to rigour of Section 70 *ibid* so far as employees working in the State or its authorities are concerned. In these circumstances, it was for the competent authority as specified in proviso to Section 70 to have passed appropriate orders in relation to respondent No. 1 affecting his continuance on such post. Since neither the State of Chhattisgarh and nor the State of M.P. were the competent authorities for passing such order in terms of the proviso to Section 70 and hence so long as proper order had not been passed as contemplated u/s 70 *ibid*, respondent No. 1 could not have been asked to go back to State of M.P. by the Chhattisgarh State and in any event not in the manner in which he was asked to go by the impugned order which did not contain any reason much less justifiable one. In other words, the impugned orders/letters were apparently passed without taking into consideration any provisions of the Act much less those provisions, which governed employees continuance on the post held by him on the appointed date. Since no reasons were assigned in the impugned letters for giving direction to respondent No. 1 to go to State of M.P. from Chhattisgarh State and hence no reasons now can be supplied in the return for the first time of any nature to support the impugned orders/letters. It is not permissible. In our opinion, this itself is sufficient to quash the impugned letters and hence we also affirm their quashing on such ground without much going into any other aspects of the case in this appeal.

13. Before parting with the case, we may observe that the authorities concerned would be free to pass appropriate orders keeping in view the provisions of the Act in the case of respondent No. 1 - if he is in service or even other wise to work out his status and other issues relating to his service.

14. In the light of foregoing discussion, the appeal is found to be devoid of any

merit. It fails and is accordingly dismissed. No cost.