
(2016) 08 JH CK 0130
In the Jharkhand High Court
Case No : W.P. (S) No. 3585 of 2016

Sujit Kumar

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 12-08-2016

Acts Referred:

Citation : (2017) 1 JCR 370

Hon'ble Judges : Mr. Ananda Sen, J.

Bench : Single Bench

Advocate : Mr. R.N. Sahay, Sr. Advocate. Mr. Rakesh Ranjan, Advocate, for the Petitioners; Mr. Prashant Kumar Singh, G.P.VI, for the State

Final Decision : Dismissed

Judgement

Mr. Ananda Sen, J. - The petitioners, in this writ application, have prayed to quash the transfer order issued vide memo no. 1547 dated 24.06.2016, by which they have been transferred from one district to another district.

2. The petitioners are Class III employees and are posted in the offices of the Assistant Registrar, District Co-operative Offices, Offices of the District Audit Officers, Deputy Registrars and Joint Registrar, Co-operative Societies in the various districts, divisions within the State of Jharkhand.

3. Petitioner no.1 is posted in the district of Dhanbad, petitioner no.2 is posted in the district of Hazaribagh and petitioner nos. 3,4 and 5 are posted in the district of Ranchi. Virtue of the impugned order, the petitioners were transferred to the different districts within the State of Jharkhand. Petitioner no.1 has been transferred from district of Dhanbad to the district of Sahibganj, petitioner no.2 has been transferred from the district of Hazaribagh to the district of Gumla, petitioner no.3 has been transferred from the district of Ranchi to the district of Pakur, petitioner no.4 has been transferred from the district of Ranchi to the district of West Singhbhum and petitioner no.5 has been transferred from the district of Ranchi to the district of Godda. The said transfer order has been

challenged only on the ground that the posts, in which the petitioners are working are "district cadre" posts, as such, inter district transfer is not permissible.

4. Counsel for the petitioners submits that the petitioners are clerks and are serving in the district cadre posts, as such, they cannot be posted by way of transfer, outside the district. Reliance has been placed upon a resolution issued vide memo 3138 dated 12.04.2016, by which the Government has decided to identify the district level posts of the different department mentioned in the said resolution. Relying upon Schedule A to the resolution, learned counsel for the petitioners states that the clerk of Agriculture, Animal Husbandry and Co-operatives Department has been identified as district level posts, as such, petitioners being the clerks could not have been transferred.

5. Counter affidavit has been filed on behalf of the respondents. In the said counter affidavit it has been stated that the petitioners were initially appointed by office of the Registrar, Co-operative Societies, vide different appointment letters and they are posted and working in different offices of the Co-operative Societies. He further submits that vide resolution no. 1393 dated 01.08.2007, the Registrar, Co-operative Societies, Jharkhand, is authorised to appoint, promote, transfer, post and confirm the services of Class-III and Class IV employees of the Regional Offices of the Co-operative Department, Jharkhand. It has been submitted that the posts of clerks in the regional office of the Co-operative Department has been identified as a State cadre post because the Registrar, Co-operative Societies is the appointing authority. The clerks, of the regional offices of the Co-operative Societies, are under the "State cadre" because the Registrar, Co-operative Societies is competent to appoint and promote them, whereas the appointing authority of the clerks of the district cadre is the Deputy Commissioner of the concerned districts. It was found that there are several clerks, who are working for 4 years to 8 years in one office, thus, as per provisions of Rule 22(5) of the Jharkhand Executive Rules, 2000, the Co-operative Department has constituted an "establishment committee" for the transfer and posting of Class III and IV employees, who are working under the regional establishment. The said Committee considered the case of the individual petitioners and recommended for their transfer. It has also been mentioned that the clerks of the regional office of the Co-operative Department came under the state cadre, so the gradation list of the clerks posted in the regional offices of the Registrar, Co-operative societies, has been prepared and published vide letter no. 2266 dated 31.08.2013. He further submits that vide resolution no. G.S.R. 1235 dated 13.07.2015, the Co-operative Department merged with Agricultural and Animal Husbandry Department and appointments of all the petitioners were made much prior to the merger, by "Registrar Cooperative Societies" at the State Level. He lastly submits that Class III post, in which the petitioners are working, is State level post, as such, the order of transfer is absolutely justified.

6. Main contention of the petitioners is that as because they are working in the

"district cadre" post, they cannot be transferred. The petitioners have heavily relied upon resolution issued vide memo 3138 dated 12.04.2016, which, according to them, identified the post of clerks in the Co-operative Department as district level posts.

7. From perusal of paragraph 2 of the said resolution, it is apparent that the Government after scrutinizing all the district level posts, has taken a decision that in the several Departments, all the district level posts, which have been mentioned in Schedule-A of Annexure-1, in respect of several departments, will be treated as district level posts. From the perusal of the said resolution, it is clear that the Government had scrutinized the district level posts, which already earlier were district level post, and they have decided to keep them intact.

8. The respondents have submitted that the post, in which the petitioners are working, are in the Regional Offices of the Co-operative Societies, which is State cadre posts. They have further submitted that the appointments of the petitioners are done by the Registrar, Co-operative societies and not by the Deputy Commissioners of the each districts. Thus, goes to suggest that the posts, in which the petitioners are working is State cadre post. Further in the gradation list, where the names of the petitioners are reflected, are the State-wise gradation list. This also suggests that the petitioners are working in the "State Cadre Post".

9. Thus, I find that the petitioners are working in the State level cadre and their transfer cannot be held to be bad. The transfer of the petitioners has been done by the Establishment committee, which is competent to recommend for transfer the petitioners. Further from the affidavit filed by the Department, it is apparent that the petitioner no.1 has been posted in the district of Dhanbad, from June, 2010, petitioner no.2 has been posted in the district of Hazaribagh from July, 2012, petitioner no.3 has been posted in the district of Hazaribagh from 2009 and thereafter in Ranchi from 2010, petitioner no.4 has been posted in the district of Ranchi from 2010 and petitioner no.5 has also been posted in the district of Ranchi from 2012. Thus, it is clear that the petitioners have remained for a long period in the respective districts, where they were working. Further it is apparent that before this particular transfer, the petitioners were earlier transferred and brought in to the respective districts, from other districts. So, on earlier occasions also their transfer was inter-district transfer, which was accepted by them. This fact also suggests that they are not in the district cadre posts but are in the "State Cadre Posts".

10. In view of what has been stated above, I do not find any illegality or irregularity in the transfer order issued vide memo no. 1547 dated 24.06.2016. Thus, this writ application is dismissed.