
(2015) 08 RAJ CK 0085
In the Rajasthan High Court
Case No : Civil Writ Petition No. 7268 of 2015

Vijay Vishnoi

APPELLANT

Vs

JVVNL and Others

RESPONDENT

Date of Decision : 26-08-2015

Acts Referred:

Citation : (2015) 08 RAJ CK 0085

Hon'ble Judges : Sandeep Mehta, J

Bench : Single Bench

Advocate : J.S. Bhaleria, for the Appellant; Ravi Bhansali, Advocates for the Respondent

Final Decision : Disposed off

Judgement

Sandeep Mehta, J—Heard learned counsel for the parties.

2. The petitioner, who is working as a Technical Helper in the respondent JVVNL, through this writ petition, seeks to assail the legality and validity of the order Annex. P/2 dated 30.6.2015 whereby, he was transferred from Suratgarh to Bikaner.

3. Learned counsel for the petitioner submits that the impugned order Annex. P/2 dated 30.6.2015 is totally de hors the provisions of the Rules applicable to the employees of the power companies. He drew the attention of this Court to Rajasthan State Electricity Board Travelling Allowance Rules which are applicable to such employees and particularly, Appendix-C prepared under Rule 27A(1) and (2) thereof and contended that as per column No. 10 of the Appendix-C, it is mandatory to mention in the transfer order that such transfer is being directed in public interest or for administrative reasons. In absence of such specific stipulation in the transfer order, the transfer shall be treated on request of the concerned employee and traveling allowance on transfer will not be admissible in such cases. He further submits that when transfer is effected at the employee's request, the employee would lose his seniority. He contends that the order

Annex. P/2 dated 30.6.2015 does not mention that the transfers are being directed in public interest or for administrative reasons. As per him, the petitioner never made any request for transfer. He thus, urged that in view of the aforesaid language of Appendix-C, it will be assumed that the transfer was made at the request of the petitioner employee and thereby, he will lose his seniority.

4. Mr. Ravi Bhansali, learned counsel for the respondents, is not in a position to dispute the fact that the language of the transfer order is not in consonance with the requirement of the Appendix-C of the Travelling Allowance Rules applicable to the employees of the power companies. It is undisputed that the transfer order was not directed on the employee's request and, therefore, it was essential to mention in the transfer order that the transfer was being made in public interest or for administrative reasons.

5. On examining the ratio of the judgment rendered by a Single Bench of this Court in the case of Champa Lal Parihar. v. State of Rajasthan & Ors. reported in 2006(1) WLC (Raj.) 212, this Court is satisfied that the controversy at hand is fully covered by the above mentioned judgment wherein it was held as under:--

"14. It is admitted position that vide impugned order dated 4.7.2005 (Annexure-3), the petitioner has been transferred from Luni to Bhinmal. As per the aforesaid transfer order, he will not be entitled to claim for any travelling allowance and joining period. It is also admitted position that the petitioner has not made any request for his transfer to any other place, whereas the impugned transfer order (Annexure-3) stipulates that the petitioner has been transferred on his own request. Apart from that as per Rule 291 of the Rules, if the petitioner is transferred from one district to another district, he will lose his seniority and will be placed at the bottom of the seniority list of the cadre to which he belongs. It may be mentioned that frequent, unscheduled and unreasonable transfers uproot a family, cause irreparable harm to a Government servant and drive him to desperation. It disrupts the education of his children and leads to numerous other complications and other problems, which ultimately result in hardship and demoralisation".

6. As a result of the aforesaid discussion, the instant writ petition deserves to be and is hereby allowed. The impugned transfer order Annex. P/2 dated 30.6.2015 is quashed qua the petitioner. However, the respondents shall be at liberty to pass a fresh transfer order compliant to the Rules, if so required.

7. Stay petition also stands disposed of.

8. No order as to costs.