

Anand Kumar Vs. State of Jharkhand and Ors

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Court : Jharkhand

Decided On : Feb-08-2017

Appellant : Anand Kumar

Respondent : State of Jharkhand and Ors

Judgement :

1 IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P.(S) No. 4945 of 2016
Anand Kumar, son of Sri Jadunandan Roy, resident of Flat No. 302, Krishna Shree
Apartment, Anantpur, near over bridge, PO Doranda, PS Chutiya, District Ranchi,
State of Jharkhand Petitioner Versus

1. The State of Jharkhand

3. Chief Secretary, Jharkhand, Project Bhawan, PO&PS Dhurwa, Ranchi

4. Principal Secretary, Cabinet Secretariat and Coordination Department,
Jharkhand, Project Bhawan, Po&PS Dhurwa, Ranchi

5. Principal Secretary, Forest, Environment and Climate Change Department,
Jharkhand Government, Nepal House, PO&PS Doranda, Ranchi

6. Ajay Kumar Rastogi, Special Secretary, Forest, Environment and Climate
Change Department, Jharkhand Government, Nepal House, PO&PS Doranda,
Ranchi

7. Principal Chief Conservator of Forests, Jharkhand, Van Bhavan, PO&PSDoranda, Ranchi Respondents ----- CORAM: HON'BLE MR. JUSTICE SHREE CHANDRASHEKHAR For the Petitioner : Inperson For the Respondents : Mr. Rajiv Anand, G.A. IV ----- 08/08.02.2017 The petitioner has approached this Court with the following prayers : I. For issuance of an appropriate writ/writs, order/orders, direction/directions commanding upon the Honorable Chief MinistercumMinister, Forest, Environment and Climate Change Department of the State of Jharkhand to make advisory guideline and scheme of carrier management also job requirement chart for the Establishment Committee within a stipulated time in the light of resolution adopted by Jharkhand Government laid down by Cabinet Secretariat and Coordination Department Resolution no. 3918, dated 25th October, 1980 which is the policy and procedure regarding transfer and posting of the Government Servants. II. For issuance of an appropriate writ/writs, order/orders, direction/directions for passing an order of the 2 transfer and posting of the petitioner from Patan Afforestation Range, Medininagar Forest Division, Palamau to Dalma Wildlife Sanctuary or Mango Forest Range or Chakuliya Forest Range or any of the Forest Range in the Jamshedpur City or nearby Jamshedpur City in the light of previous order and directions issued by the Advisor of the Hon'ble Governor of Jharkhand as well as Hon'ble Chief Minister of the State of Jharkhand as petitioner wife is suffering from cancer and she is getting her treatment at Tata Memorial Centre at Mumbai by which she will get better medical facilities at Tata Cancer Hospital which is situated in the city of Jamshedpur. III. For issuance of an appropriate writ/writs, order/orders, direction/directions commanding upon the respondents to notify the petitioner transfer and posting notification Patan Afforestation Range, Medininagar Forest Division, Palamau to Dalma Elephant Sanctuary or Mango Forest Range or Chakuliya Forest Range or any of the Forest Range in the Jamshedpur city or nearby Jamshedpur City within a stipulated time. IV. And any other relief or reliefs for which the petitioner is entitled to may be granted in the facts and circumstances of this instant writ petition in favor of keen justices.

2. Heard.

3. Referring to various documents including, Annexure 25, the petitioner in person contends that in spite of a favourable recommendation, he who possesses specialized knowledge was not transferred to an appropriate place, and at times he was transferred to a place where either the office was closed or the office does not exist. Further grievance of the petitioner is that though a transfer order has been issued transferring him from Patan Afforestation Range to the office of the Conservator at Forest Working Circle, Chaibasa (Headquarter at Jamshedpur) the said transfer order apparently is in compliance of order dated 26.10.2016 passed by this Court and not on the recommendation of the competent authority or taking note of the representations of the petitioner. 4. The learned State counsel referring to the stand taken in the counter affidavit submits that the petitioner has no legal right in law to seek transfer and moreover, after he has been transferred the writ petition has been rendered infructuous.

5. Order dated 20.10.2016 would disclose that when the allegations against respondent no. 2 was pointed out to the petitioner, he made a prayer for deleting respondent no. 2 from the array of parties. Order dated 20.10.2016 reads as under: The petitioner, in person, makes a prayer to delete respondent no. 2 from the array of parties. He undertakes to file an affidavit withdrawing allegations against the officers and withdrawing prayer at Clause (I). To a pointed query whether the department is denying that the wife of petitioner is suffering from cancer, the learned State counsel seeks short adjournment and prayed for listing of the matter on 26.10.2016. Post the matter on 26.10.2016, under the heading For Orders.

6. Thereafter, on 26.10.2016 taking note of information furnished to the Court that meeting of the Establishment Committee is scheduled in the 2nd week of November, 2016, the matter was adjourned for 11.11.2016. It appears that on 08.11.2016, the petitioner filed a supplementary affidavit making certain inappropriate comments against the conducting counsel, to which objection was raised by the State counsel. On 17.11.2016 the petitioner has been transferred.

7. The prayer of the petitioner that he shall be transferred to Dalma Wildlife Sanctuary, Mango Forest Range, Chakulia Forest Range etc. or to a place nearby

Jamshedpur City, 4 on a pretension that he possesses specialized knowledge and while so, he has a right to be posted on a particular place is completely misconceived. The petitioner does not have a right in law to be posted at a particular place or on a particular post. Prayer for his transfer is founded on another ground namely, wife's ailments. It is not disputed that the petitioner has been transferred to a place near Jamshedpur, where he intends to get his wife treated. Now, let us see his conduct. The petitioner vide letter dated 21.11.2016 to the Principal Secretary, Forest, Environment and Climate Change Department made a grievance that there is no office of Work Plan Range either at Chaibasa or Jamshedpur. This is, least to say, could have been avoided by him. In spite of order dated 09.12.2016 the petitioner has not tendered his joining for the aforesaid reason. There is an office of the Conservator of Forest at Jamshedpur is not in dispute.

8. In the counteraffidavit filed on behalf of the respondent State a copy of order dated 11.10.2011 passed in LPA No. 196 of 2011 has been produced. The Letters Patent Appeal was filed challenging the order passed in W.P.(S) No. 125 of 2011 which was dismissed on 04.05.2011. In the said order a Division Bench of this Court has observed as under :

9. We have entered into these factual aspects only because of the reason that the petitioner, who while challenging the transfer order dated 25th December, 2010, went beyond all the limits in assailing all the acts of the Government servants. The petitioner's contention that he personally knows that Budh Ram Gope has signed the said document dated 20th February, 2011 under pressure, but no affidavit has been filed by Budh Ram Gope to support the petitioner's contention nor Budh Ram Gope is party in this writ petition. The petitioner has virtually levelled all allegations of malafide so as to implicate some persons who may be behind him who want to harass 5 him but he did not disclose name of any of such persons except impleading two persons A.K.Singh, Principal Chief Conservator of Forests, Ranchi and Sukhnand Kumar who is holding the post of Forest Range Officer, Sikaripara Social Forestry Range, Dumka against whom, during the course of argument, nothing has been said so as to indicate their motive behind passing the order dated 25th December, 2010.

10. The contention of the writ petitioner that there could not have been rent of Rs. 100/ for the office of the Government at the place where it has been claimed, and the documents showing payment of salary to the persons working in that office are fabricated, cannot be accepted and it appears that after filing the writ petition, the petitioner wants to take benefit of the subsequent developments for which he wanted to press these facts. The petition could have been dismissed with heavy cost but as we have indicated, the petitioner is not assisted by any counsel, therefore, the present L.P.A. is dismissed without imposing any cost.

9. In the present proceeding also, the petitioner has filed affidavits, but without permission of the Court, levelling certain allegations against the conducting counsel and some officers. However, for the reason cost was not imposed upon him by the Letters Patent Court, I also decline to impose cost upon him. 10. The writ petition stands dismissed. (Shree Chandrashekhar, J.) Tanuj/

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