

**Ranjeet Kumar Vs. Road Construction**

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**Court :** Jharkhand

**Decided On :** Sep-16-2015

**Appellant :** Ranjeet Kumar

**Respondent :** Road Construction

**Judgement :**

IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P. (S) No. 3094 of 2015  
--- Ranjeet Kumar --- --- --- Petitioner Versus 1. The State of Jharkhand 2.  
Secretary, Road Construction Department, Government of Jharkhand 3.  
Superintending Engineer, Abhiyantran Bhawan 4. Executive Engineer, NH  
Division, Ranchi 5. Abhay Kumar Roy, Sub Divisional Officer, NH Sub Division,  
Ranchi 6. Binay Prakash Singh, Superintending Engineer, NH Circle, Abhiyantran  
Bhawan, Ranchi 7. Vigilance Bureau, Jharkhand through its Inspector General,  
Vigilance --- --- --- Respondents --- CORAM: The Honble Mr. Justice Aparesh  
Kumar Singh For the Petitioner: M/s M.S. Anwar, Sr. Advocate, Afaque Ahmad,  
Altaf Hussain, Shadab Bin Haque, Advocates For the Resp-State: Mr. Dhananjay  
Kr.Dubey, Sr.SC-I and Mr. Aashish Kumar Thakur, JC to Sr. SC-I --- 09/  
16.09.2015 Heard counsel for the parties.

2. The petitioner aggrieved with an order of transfer (Annexure-7) dated  
01.07.2015 issued by the Superintending Engineer, National Highways Circle,  
Ranchi, has approached this Court in the present writ application. He has been  
transferred from the post of Sub Divisional Clerk, National Highways Sub Division  
No. 1 to the National Highways Division, Medninar. Admittedly, he had

remained at the present place of posting for more than ten years.

3. On the first date when the matter was taken up on 16.07.2015, this Court while recording the submission made on behalf of the petitioner, clearly observed that there is no stay on the impugned order of transfer. It was also observed that joining of the petitioner at the transferred place would be subject to the outcome of the writ petition. It is to be taken note of that the petitioner even after such observation, did not proceed to submit joining till 19.08.2015 when it was brought to the notice of this Court. The department was directed to look into the conduct of the petitioner whether he has joined at the transferred place as there is no stay on the impugned order of transfer.

4. Through a supplementary affidavit filed by the petitioner, he has enclosed a 2. letter purportedly showing his joining on 20.08.2015 in the office of Executive Engineer, National Highways Division, Medninar. The receipt on the left hand side is a simple initial without any seal of the office. Respondents appear to have issued a press notice on 26.08.2015 (Annexure-11 to the said supplementary affidavit dated 09.09.2015), asking the petitioner to join at the transferred place, failing which action would be taken as per rules for unauthorized absence.

5. Leaving aside that aspect of the matter for the present, the order of transfer has been essentially challenged by the petitioner alleging malafide against certain officials i.e. Respondent Nos. 5 - Abhay Kumar Roy, Sub Divisional Officer, NH Sub Division, Ranchi and Respondent No. 6- Binay Prakash Singh, Superintending Engineer, NH Circle, Ranchi. From the averments made in the writ petition specifically at paragraph-9, 10, 11 and 12, it appears that the petitioner has been making certain representations being letters dated 01.12.2005, 28.11.2008, 01.08.2012, 26.08.2014, 30.08.2014, 13.09.2014 and 03.12.2014 (Annexure-2 series) alleging irregularities committed by the Engineers posted in the National Highways Sub Division including the Respondent No.

5. It appears from perusal of para-13 that when the petitioner directly corresponded with the Superintending Engineer, National Highways Circle, Ranchi through his letter dated 03.12.2014, explanation was asked from him by letter dated 16.12.2014 bearing no. 896 by the Superintending Engineer, National

Highways Circle, Ranchi. Petitioner on the basis of these assertion, alleged that the impugned transfer is actuated by malafides. From the Minutes of the Circle Level Screening Committee / Establishment Committee based upon which, the impugned of transfer was issued, it appears that four members i.e. Executive Engineer, National Highways Division, Chaibasa Singrai Tudi, Executive Engineer, National Highways Division, Gumla Amarendra Kumar Sinha, Executive Engineer, National Highways Division, Ranchi Pravin Jayant Bhengra, Member-cum-Technical Advisor, National Highways Circle, Ranchi Deoniti Rai were present and Chairman-cum- 3. Superintending Engineer, National Highways Circle, Ranchi Vinay Prakash Singh (i.e. Respondent No. 3/6) presided over the meeting. Respondent No. 5 against whom the petitioner has alleged certain irregularities in the execution or measurement of certain works, was not part of the decision making process. However, petitioner's allegation against the respondent no. 6 simply on the ground that he had issued a letter dated 16.12.2014 asking him to explain as to why he has straightaway undertaken correspondence with the said officer jumping all hierarchy in contravention of rules, cannot be made out a ground to allege malafides on the part of the said officer in the decision making process.

6. When the representation of the petitioner which covers the period from 2005 to 2014 are being specifically asked to be explained by the learned counsel appearing on behalf of the petitioner, no specific detail of such agreement in respect of which allegations of wrong measurement of a particular stretch of National Highways Division-75 or 33, is made out from those representations. Petitioner's contention that he had made such representations before the respondent authorities, has been specifically controverted by the respondent through their counter affidavit filed earlier as also later on through an affidavit dated 09.09.2015 by stating at para-22 that the letters dated 02.12.2008, 19.05.2014, 26.08.2014 and 30.08.2014 have neither been received not docketed in the docket register in the divisional office.

7. Respondent department had earlier filed an affidavit sworn through Assistant Engineer, Quality Control, Sub Division, Ranchi which also controverted the allegation of the petitioner in which at para-19 also, it was stated that these letters

referred to in para-9, were not served to any of the authorities and does not bear seal and signature of any of the authorities. Rather, they have been annexed to make out a false allegation against the higher authority without any basis. However, since the allegations were being repeatedly pressed on behalf of the petitioner, it was deemed appropriate to direct the competent authority of the 4. respondent department to file a response to the averments in the writ petition which has been done through their rejoinder affidavit on 09.09.2015.

8. The upshot of the discussions is that the impugned order of transfer is sought to be questioned on the ground of malafides by the petitioner, though the documents at Annexure-2 and Annexure-4 series do not appear to have any nexus with the decision making process arrived at by the Establishment Committee which met on 27.06.2015 to transfer certain Class-III and Class-IV employees from one place to another including the petitioner. Learned counsel for the petitioner has then urged that though, the impugned order of transfer states that it has been done in the interest of work, but Minutes of the Establishment Committee meeting dated 27.06.2015 show that they have been done for administrative reasons. The impugned order, however on the face of it, does not appear to be punitive. It is submitted that the respondents have manufactured the documents, as brought on record through the first counter affidavit filed on 14.08.2015, by enclosing certain complaints said to have been made against the petitioner and counter signed by the Executive Engineer on 18.12.2014. Learned counsel for the petitioner also submitted that deponent of the affidavit filed on 14.08.2015 had clearly stated that the Assistant Engineer and the Executive Engineer were away in Delhi between 14.12.2014 to 19.12.2014, though such assertion are rendered false when counter signature of the Executive Engineer is found on the documents enclosed by the respondent themselves in the counter affidavit i.e. the complaints allegedly made against the petitioner. To that, in the rejoinder affidavit filed by the respondent department on 09.09.2015, it is categorically stated at para-22 that as a matter of fact, the Executive Engineer and the Assistant Engineer were to stay at New Delhi from 14.12.2014 to 19.12.2014, but after completion of work at MORT&H, New Delhi, they have returned to Ranchi on 18.12.2014. Annexure-D is Air Tickets in the name of said persons enclosed to the said affidavit in support thereof.

5. 9. So far as the allegations of measurement, etc. are concerned, which are being levelled through letters enclosed at Annexure-2 series by the petitioner, respondents have also stated that there is no gross illegality and irregularity in the said division. The annual audit report raised by the the audit team vide letter no. 70 of 2013 dated 13.01.2014 of the Accountant General, Jharkhand is relevant and the reply and supporting documents have been submitted in the office of the Accountant General. Annexure-B in support thereof has been enclosed. Petitioner in his reply to the said affidavit, however has again asserted that such replies are yet to be accepted by the office of the Accountant General. If that be so, then no final opinion can be drawn even in respect of those allegations as the matter is to be finally considered by the office of the Accountant General which is the Auditing body to perform such audit works undertaken in the department and specifically in relation to the National Highways Circle, Ranchi with which petitioner was concerned.

10. The detailed discussions made hereinabove only lead to the conclusion that the order of transfer cannot be said to be actuated by malafides as the decision making authorities have apparently no grudge against the petitioner. Allegations, which are made out by the petitioner through letters enclosed at Annexure-2 series and Annexure-4 series relate over a period of ten years from 2005 till December, 2014 and petitioner has not able to show that any time prior to the impugned transfer, petitioner was made victim of circumstances on account of such allegation made by him. As has been noted in the foregoing part of the judgment, petitioner had remained for ten years at the same place and cannot claim to continue at a particular post or place for indefinite period of time being employee of Government; transfer being an incidence of service. Petitioner in his last affidavit filed on 15.09.2015, has brought on record a chart to show that many Class-III and Class-IV employees have been working at one place for long period in the same circle. Even if that be so, petitioner cannot claim to continue as a 6. matter of right at any particular place of posting over a period of ten years as is the present case.

11. In the totality of the facts and circumstances and the reasons discussed hereinabove, the challenge to the impugned transfer of the petitioner is

unsubstantiated by allegations of malafides, as sought to be made. It is trite to observe that the allegations of malafides are easier made than established. When such allegations are made, they should be made with all sense of responsibility, otherwise, the person making such allegation should be ready to face consequences.

12. Petitioner has not offered any explanation for not submitting joining even after stay was refused by this Court on the first date itself for more than one month and only upon a further query made by this Court on 19.08.2015, seems to have proceeded to submit joining. Though, this Court was inclined to pass strictures against the petitioner for not proceeding to join at his transferred place despite refusal of stay by this Court, but on consideration, he is let-off with a word of caution to be careful in future.

13. Accordingly, the writ petition is dismissed. (Aparesh Kumar Singh, J)  
Ranjeet/Kamlesh

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