

Supreme Court of India

Mrs. Shilpi Bose And Others vs State Of Bihar And Others on 19 November, 1990

Equivalent citations: AIR 1991 SC 532, 1991 LabLC 360, (1991) IILLJ 591 SC, 1991 Supp (2) SCC 659

Bench: K Singh, K Ramaswamy

ORDER

1. Leave granted.

2. The appellants are lady teachers in Primary Schools in the State of Bihar, On their request they were transferred to places where their husbands were posted by the District Education Establishment Committee. Respondents Nos. 4 to 18 who were displaced by the appellants challenged the validity of the transfer Orders before the High Court by means of a writ petition under Article 226 of the Constitution. The High Court by its judgment and Order dated 8-2-1989 set aside the transfer Orders and directed the reposting of the respondents to the places from where they had been transferred.

3. After hearing learned Counsel for the parties and having considered the facts and circumstances of the case, we are of the opinion that the High Court committed serious error in interfering with the transfer Orders of primary school teachers. The High Court held that the District Education Establishment Committee had no jurisdiction to transfer the Primary School teachers on their request. We find no justification for this conclusion. There is no dispute that the District Education Establishment Committee is competent to transfer Primary School teachers from one place to the other but merely because such transfers were made on the request of teachers, the committee is divested of its jurisdiction. The Director of the Primary Education had issued directions that lady teachers posted in distant areas or rural areas may be accommodated to the place of their request to avoid hardship to them. These directions are reasonable, and the District Education Establishment Committee followed the same principles in transferring the appellants on their requests to avoid hardship with was being caused to them. The respondents challenged the validity of the transfer before the High Court on another ground also that Primary School teachers posted in the urban areas were not liable to be transferred to rural areas though the State Government had issued circular on March 30, 1984 permitting transfers from urban areas to rural areas. The High Court did not interfere with the Order of the transfer on this ground instead it held that the transfer Orders were without jurisdiction as the same had been made on the appellants' request with a view of accommodate them. We fail to appreciate the reasoning recorded by the High Court. If the competent authority issued transfer Orders with a view to accommodate a public servant to avoid hardship, the same cannot and should not be interfered by the Court merely because the transfer Order were passed on the request of the employees concerned. The respondents have continued to be posted at their respective places for the last several years, they have no vested right to remain posted at one place. Since they hold transferable posts they are liable to be transferred from one place to the other. The transfer Orders had been issued by the competent authority which did not violate any mandatory Rule, therefore the High Court had no jurisdiction to interfere with the transfer Orders.

4. In our opinion, the Courts should not interfere with a transfer Order which are made in public interest and for administrative reasons unless the transfer Orders are made in violation of any mandatory statutory Rule or on the ground of malafide. A Government servant holding a transferable post has no vested right to remain posted at one place or the other, he is liable to be transferred from one place to the other. Transfer Orders issued by the competent authority do not violate any of his legal rights. Even if a transfer Order is passed in violation of executive instructions or Orders, the Courts ordinarily should not interfere with the Order instead affected party should approach the higher authorities in the Department. If the Courts continue to interfere with day-to-day transfer Orders issued by the Government and its subordinate authorities, there will be complete chaos in the Administration which would not be conducive to public interest. The High Court over looked these aspects in interfering with the transfer Orders.

5. We accordingly allow the appeal, set aside the Order of the High Court and dismiss the petition filed by the respondents. The appellants should be posted to the places to which they had been transferred under the Orders impugned before the High Court. There will be no Order as to costs.