

CWP No. 175 of 2015

Shobha Chugh vs State of Haryana and others

Present: Mr. Ram Niwas Sharma, Advocate, for the petitioner.

The petitioner approached this Court challenging the order dated 30.12.2014 vide which she was transferred as Principal from Government College for Women, Faridabad to Government College, Hodal. The ground for challenging the transfer order is that she is to retire on 31.1.2015 on attaining the age of superannuation i.e. 58 years.

Considering the aforesaid fact and to find out as to whether while issuing the order of transfer, the bare fact that when an employee, who is sought to be transferred is to retire is considered or not, Mr. Harish Rathee, Senior Deputy Advocate General, Haryana, was handed over a copy of the petition and requested to get the official file where the transfer of the petitioner was dealt with.

In the afternoon session, the file where the transfer of the petitioner was dealt with was produced. It makes an interesting reading. The Education Minister sent an undated note to the Additional Chief Secretary, Higher Education, Haryana. As is evident from stamp in his office, it contains dairy no. 221-N dated 3.12.2014. The note also contains signatures of M.L.A. Prathla (Tek Chand Sharma). The note reads as under:-

“I would like that Sh. Ramesh Chander Vasisath, Principal, Govt. College Hodal may be transferred to Govt. College (Women), Faridabad vice Smt. Shobha Chugh, Principal and vice-versa.

Orders be issued today.

Sd/
M.L.A. Prathla
(Tek Chand Sharma)

Sd/-
E.M.

xx
ACS (HE)”

The direction was issued by the officer on 3.12.2014 “Please put up on file”. Then it was dealt with by 3-4 officers, one of whom

mentioned as 'urgent'. All the notings on file are dated 4.12.2014. From the aforesaid note, as is evident, that all the officers did not mention their names and designation on the notings. Thereafter, the file was dealt with on 8.12.2014 and note mentioned that the Education Minister has desired that Ramesh Chander Vashisth may be transferred from Government College Hodal to Government College for Women, Faridabad, against Shobha Chugh, Principal and vice-versa. It was further mentioned that post of Principal is Class-I Cadre post, hence the power to transfer a Principal is with Hon'ble the Chief Minister. Thereafter, it was dealt with by number of officers, whose names and designations are not evident, except that of Vijay Vardhan, Additional Chief Secretary, Higher Education, Haryana, who signed the note on 17.12.2014.

On 22.12.2014, Hon'ble the Chief Minister approved the note. After the down marking, the file was received in the Branch on 30.12.2014. A fresh note was put up by the Superintendent Administration on 31.12.2014, recommending that the matter regarding the aforesaid transfer deserves to be reconsidered as Shobha Chugh, Principal, is due to retire on 31.1.2015, hence, after cancelling the order, the matter is required to be referred to the Education Minister. The note suggested that power to issue order of transfer of Class-I officer did not vest with the Education Minister but with Hon'ble the Chief Minister. The same was dealt with upto the Additional Chief Secretary, Higher Education and then put up on 7.1.2015 for signatures on the order and on the same day, the order of cancellation was issued, which has been produced in Court. This apparently was done after this Court sought file of the case.

From the facts as noted above, it is evident that none of the notings where the case of transfer was dealt with, it was pointed out that the petitioner was to retire on attaining the age of superannuation on 31.1.2015, though the file was dealt with at different levels by different officials/officers upto the rank of Additional Chief Secretary, Higher Education. The note from the Education Minister directed that the order of transfer be issued on the same day, whereas the noting put up on 8.12.2014 suggested that the Education Minister did not have the power to transfer a Class-I

officer as this power vested with Hon'ble the Chief Minister. The manner in which the entire proceedings have taken place, it is established that there is no system in place to deal with the directions or recommendations of the Ministers. While dealing with the files in terms of the directions issued by the Minister, before issuing transfer order or before getting approval from Hon'ble the Chief Minister, no one pointed out that the incumbent sought to be transferred was due to retire on attaining the age of superannuation within a month of the order of transfer to be passed. In fact, after the file was received back from the office of Hon'ble the Chief Minister on the very next day, a fresh note was put up by the office for cancellation pointing out that the petitioner was to retire on attaining the age of superannuation on 31.1.2015.

As far as the present petitioner is concerned, as the order of cancellation of her transfer from Government College, Hodal to Government College for Women, Faridabad, has been produced in Court, the prayer made in the present petition has been rendered infructuous and the same is disposed of as such. However, still the matter is required to be examined to consider the manner in which valuable human resource in the office was wasted and unnecessary litigation was generated by the Government.

On request of counsel for the State, adjourned to 27.1.2015.

7.1.2015
vs

(Rajesh Bindal)
Judge