

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

Writ Petition (WP) No. 5013/2021
Omprakash s/o Kawluji Dongarwar
..VS..

The Divisional Commissioner, Nagpur and ors.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri A.H. Joshi, Advocate for the petitioner
Ms. Hemlata Jaipurkar, AGP for respondent no. 1/State
Shri Anoop Parihar, Advocate for respondent nos. 1 and 2

CORAM : A. S. CHANDURKAR AND SMT. M.S. JAWALKAR, J.J.
DATED : 30/03/2022

The challenge raised in this writ petition is to the order of transfer dated 17.11.2021. By that order, the petitioner who was serving at Zilla Parishad High School and Junior College, Dawaniwada in Panchayat Samiti, Gondia has been transferred to Karti (Bujruk), Panchayat Samiti, Tiroda.

It is submitted by the learned Counsel for the petitioner that the order of transfer is punitive in nature and without granting any opportunity to the petitioner to show cause, his services have been transferred. It is stated that on 26.01.2020 a dispute arose in the village where the petitioner was serving which led to a complaint against the petitioner. That dispute was subsequently settled between the villagers and the petitioner, hence there was no occasion to transfer the petitioner by the order dated 17.11.2021. It is further submitted that the petitioner having served earlier at Karti (Bujruk) he was not liable to be again posted there. Moreover the order of transfer was issued mid-term and therefore was liable to be set aside.

By filing rejoinder, the petitioner seeks to contend that pursuant to the *ad interim* order dated 07.12.2021 the petitioner is still discharging duties at Dawaniwada.

The learned Counsel for the respondent nos. 2 and 3 opposed the aforesaid submission. According to him, the petitioner is serving at Dawaniwada since 2012. As per the proposal dated 04.10.2021 there was a need of Science Teacher for Class IX and X at Karti (Bujruk), Tahasil-Tiroda, District-Gondia and therefore the petitioner came to be transferred. On 18.11.2021 the Block Development Officer had relieved the petitioner and therefore the subsequent continuation of the petitioner at Dawaniwada was only on account of steps taken by the Zilla Parishad in compliance of the *interim* order of the Court.

We have heard the learned Counsel for the parties. The petitioner has been serving at Zilla Parishad High School and Junior College, Dawaniwada since 2012. The order of transfer indicates that same is on account of complaint/administrative reasons. The order of transfer was preceded by a proposal sent by the Chief Executive Officer to the Divisional Commissioner. Perusal of the said proposal indicates that no Science Teacher was available at Karti (Bujruk) and hence the petitioner was sought to be posted at Karti (Bujruk). There is no reference to any complaint being the basis of such transfer. It is thus clear that the transfer of the petitioner is for administrative reasons. It is however a fact that the order of transfer has been issued mid-term. On 07.12.2021 this Court had directed the respondent no. 2 not to relieve the petitioner if he had not being so relieved till next date. There

appears to be a dispute with regard to the discharge of duties by the petitioner at Dawaniwada after his transfer. The Chief Executive Officer on 17.12.2021 has permitted continuation of the petitioner at Dawaniwada until further orders in the writ petition in view of the interim directions. Considering the fact that the present academic session would come to an end by 30.04.2022 the petitioner can be permitted to continue at Dawaniwada till 30.04.2022.

Since the transfer is found to have been made on administrative exigencies, we are not inclined to interfere with the order of transfer. The petitioner is however permitted to continue at Zilla Parishad High School and Junior College, Dawaniwada till 30.04.2022. He shall thereafter report at the place of transfer. The petitioner would be entitled to receive his salary from Panchayat Samiti, Gondia where he is discharging duties, in view of the interim order dated 17.12.2021 till 30.04.2022. The writ petition is accordingly disposed of. No costs.

Civil Application (CAW) No. 351/2022 is also disposed of.

JUDGE

JUDGE

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