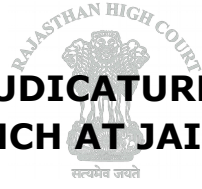




**HIGH COURT OF JUDICATURE FOR RAJASTHAN  
BENCH AT JAIPUR**



S.B. Civil Writ Petition No. 397/2021

Poonam Gurjar W/o Shri Lakhan Singh, Aged About 27 Years,  
Resident Of Behind Pratap School, Mohalla Akhepura, Alwar  
(Rajasthan).

----Petitioner

Versus

1. State Of Rajasthan, Through Secretary, Mines And Petroleum Department, Government Of Rajasthan, Secretariat, Jaipur.
2. Additional Director (Administration), Directorate Of Mines And Geology Department, Government Of Rajasthan, Udaipur (Rajasthan).
3. Mining Engineer, Mines And Geology Department, Jhunjhunu (Rajasthan).
4. Shri Ramesh Choudhary, Mines Foreman-Ii, Office Of Mining Engineer, Sriganganar.

----Respondents

Connected With

S.B. Civil Writ Petition No. 5734/2021

Hemraj Lagari S/o Phula Ram, Aged About 45 Years, R/o Village And Post Beelwa, Tehsil Khetri, District Jhunjhunu. Presently Under Transfer From The Post Of Driver From Office Of Mining Engineer, Jhunjhunu.

----Petitioner

Versus

1. The State Of Rajasthan, Through Additional Chief Secretary, Mining And Geological Department, Secretariat, Rajasthan, Jaipur.
2. The Director, Directorate Of Mining And Geological Department, Rajasthan, Udaipur.
3. The Additional Director (Administration), Directorate Of Mining And Geological Department, Rajasthan, Udaipur.
4. The Mining Engineer, Jhunjhunu.
5. Tarachand S/o Ghisalal, R/o Neem Ka Thana, District Sikar. Presently Working As A Driver Under Mining Engineer Jhunjhunu.

----Respondents





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For Petitioner(s) : Mr. Hanuman Choudhary  
Mr. David Mehla for  
Mr. Sandeep Singh Shekhawat  
For Respondent(s) : Mr. Zakir Hussain, AGC

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**HON'BLE MR. JUSTICE SAMEER JAIN**

**Order**

**08/04/2024**

The instant petitions are listed on specific directions of this Court, as pursuant to the grant of interim protection vide orders dated 15.01.2021 & 19.05.2021 the petitions have been kept in abeyance for a prolonged period of time.

At the outset, it is noted that the Hon'ble Apex Court, through a plethora of judgments, has time and again held that the permissibility and scope of judicial review against transfer orders is minuscule. The rationale exercised to circumscribe the Courts interference with transfer orders whilst exercising writ jurisdiction, primarily pertains to the fact that a bedlam of an aggravated magnitude shall ensue within the workings of the Government, if all employees, posted at a location of their liking, refuse to and/or contest their postings, when issued on account of administrative exigencies. Inevitably, the only scope of interference subsists in an eventuality where the transfer orders are issued on account of certain *malafides*, at the end of the transferring authority.

The consideration regarding which employee should be posted 'where', falls purely within the administrative domain of the appropriate authority/department to decide, in the best interests of the working of the said department, whilst seeking to advance





the department's resultant output and service efficiency. Unless the order is vitiated by mala fides or is passed in violation of any applicable statutory provisions, the Courts ought not to extend interference in such orders. By logical deduction, it is made rather obvious that no Government will be able to smoothly function if the Government Servants insist that once appointed or posted in a particular place, they should continue at such place, as long as they desire whilst meeting out their individualistic and familial ease. The fact of the transfer being an indispensable part of an employee's service is of paramount importance, which often loses favourability at the end of the employee, when they become comfortable with the place of their choosing.

It is noted that a government employee, posted at a location of their liking, does not have the fundamental protection to continue serving at the said location, especially in light of the fact that the incident of transfer, is a part and parcel of the conditions of service, when employed on a transferable post. It is true that the order of transfer often causes a lot of difficulties and dislocation in the family set up of the concerned employees but on that score alone, the order of transfer cannot be struck down. Administrative exigencies ought to prevail and/or take precedence over the familial and individualistic priorities of the employees posted on transferable jobs. The only eventuality, where the Courts may extend interference in transfer orders, is when the transfer orders violate an applicable statute or are passed on account of certain malice. In support of the aforesaid reliance can be placed upon the dictum of the Hon'ble Apex Court as



enunciated in **Shilpi Bose (Mrs.) and Ors. vs. State of Bihar and Ors.** reported in **1991 Supp. (2) SCC 659**, **Varadha Rao vs. State of Karnataka and Ors** reported in **(1986) 4 SCC 131**, **Rajendra Roy vs. Union of India and Anr.** reported in **(1993) 1 SCC 148**, **National Hydroelectric Power Corporation Ltd. vs. Shri Bhagwan** reported in **(2001) 8 SCC 574** and **S.K. Nausad Rahaman vs. Union of India and Ors.** reported in **(2022) 12 SCC 1**.

At this juncture, learned counsel for the petitioners have submitted that as the interim protection has been operative in favour of the petitioners for a prolonged period of over one year, then in such an eventuality, said interim order ought to be assumed as and/or treated to be absolute. In this regard, learned counsel also placed reliance upon the dictum of the Co-ordinate Bench of this Court as enunciated in **S.B. Civil Writ Petition No. 2140/2007** titled as **Brijendra Singh Meena vs. State of Rajasthan and Anr.**

Therefore, considering the dictum of this Court as enunciated in **Brijendra Singh Meena (Supra)**, this Court deems it appropriate to make the interim order dated 15.01.2021 & 19.05.2021, absolute.

Having made the observations noted herein-above regarding the scope of judicial review/interference in transfer orders, with the consent of learned counsel for both the sides, this Court deems it appropriate to dispose of the instant petition with directions to the respondent-Department/employer to the effect that the respondent-Department/employer shall be at liberty in





the future to pass necessary orders qua the petitioner's transfer, keeping in mind the paramount consideration of administrative exigency, if any, independent of any observations made by this Court while granting aforesaid interim protection.

Accordingly, in terms of the above, the instant petitions are disposed of. Pending applications, if any, stand disposed of.

(SAMEER JAIN),J

DEEPAK/s-547-548