

WA 289/2010

BEFORE

HON'BLE THE CHIEF JUSTICE MR.MADAN B.LOKUR

HON'BLE MRS.JUSTICE ANIMA HAZARIKA

The appellant is aggrieved by an order dated 20.8.2010 passed by a learned Single Judge in WP(C) Nos. 4562, 4563 and 4565 of 2010.

On 23.11.2006, an Office Order was issued by the Director of Panchayat & Rural Development Department redeploying Goan Panchayats.

Insofar as the appellant is concerned, he was redeployed from the Anchalik Panchayat in Tengakhat to the Gaon Panchayat in Duliajan. The order dated 23.11.2006 mentions that it was issued in supersession of the earlier orders issued by the Zilla Parishad relating to engagement/transfer etc. of Goan Panchayat Secretaries. Clearly the order dated 23.11.2006 postulates that the Zilla Parishad is entitled to engage/transfer Goan Panchayat employees.

Subsequently, another Notification dated 2.8.2010 was issued by the Chief Executive Officer, Zilla Parishad, Dibrugarh transferring the appellant to Hatiali Goan Panchayat under Panitola Development Block.

This Notification dated 2.8.2010 was challenged by the appellant before the learned Single Judge.

After hearing the parties, the learned Single Judge noted that a letter was produced by the learned Addl. Senior Government Advocate dated 19.8.2010 wherein it is mentioned that the Director of Panchayat & Rural Development Department (now the Commissioner of Panchayat & Rural Development Department) is the appointing authority in respect of the Secretary of Goan Panchayat, but the power to transfer and post Provincialised Panchayat employees including granting of leave etc. has been entrusted to the Chief Executive Officer of Zilla Parishads within their respective jurisdiction.

Since the impugned transfer order was issued by the Chief Executive Officer of the Zilla Parishads, the learned Single Judge found no error with the Notification dated 2.8.2010.

It is submitted before us by learned counsel for the appellant that the power of appointment has been delegated by the Government to the Director of Panchayat & Rural Development Department and he cannot further delegate the power to the Chief Executive Officer of the Zilla Parishads.

As we have already noted above, it appears from the order dated 23.11.2006 that Zilla Parishads already had the power to engage/transfer Goan Panchayat employees. In other words, the power had already been vested in the Zilla Parishads. In any case, there is nothing to show that the appointing power has been delegated by the Government to the Director of Panchayat & Rural Development Department. On the contrary, it appears that he is exercising plenary power as the appointing authority and he has delegated the power of engagement/transfer to the Chief Executive Officer of the Zilla Parishads. Nothing has been shown to us by learned counsel for the appellant that any power was delegated by the Government to the Director of Panchayat & Rural Development Department or that the power to transfer having been delegated to the Chief Executive Officer of the Zilla Parishads is illegal in any manner.

In the circumstances, we find no merit in this appeal and the same is accordingly dismissed.