
(2007) 04 MP CK 0100
In the Madhya Pradesh High Court
Case No : W.A. No. 497 of 2006

Birendra Kumar Tiwari

APPELLANT

Vs

Director, C.P. Railway Board and Others

RESPONDENT

Date of Decision : 27-04-2007

Acts Referred:

Citation : (2008) 2 MPJR 25

Hon'ble Judges : S.R. Waghmare, J; Dipak Misra, J

Bench : Division Bench

Advocate : Rohit Arya, with Mr. Sanjay Lal, for the Appellant; Tulika Sharma, for the Respondent

Judgement

Dipak Misra, J.

In the case at hand it is urged that the Respondent No. 4 has been instrumental in getting the Appellant transferred. An endeavour has been made to sustain the aforesaid stand on the foundation that he had suspended him from the Union and being unsuccessful has seen to it that he is transferred from Jabalpur Division to Bhopal Division. Nothing has been brought on record that the order of transfer was motivated by any extraneous factor or any kind of influence of the Respondent No. 4. On the contrary, it is perceptible that the Appellant has avoided the order of transfer. It is luminescent that he has feigned ignorance that he was not aware about the rejection of his representation. A mercurial plea has been taken that he could not join as he was suffering from ailment. We are of the considered opinion, it is a subterfuge which has been taken recourse to. It was expected that the Appellant is a member of disciplined force to abide by the aforesaid order of transfer but he has not so done. He has approached this Court challenging the order of rejection of representation quite belatedly. A union rivalry has been projected, if we permit ourselves to say so, in a different manner the employer in administrative exigency is required to take steps. It is clearly evincible that in administrative exigency the Appellant has been transferred. There cannot be an enquiry to find out allegations in every case

before an order of transfer is passed. In a disciplined force employer has the responsibility to maintain discipline and sustain an orderly and systematized attitude amongst employees. The deviancy has to be curtailed. A spacious plea has been pyramided to highlight that the order is stigmatic and punitive in nature. As has been held by their Lordships in the case of Janardhan Debanatha and Anr. (supra) that holding of an elaborate enquiry cannot be insisted upon as that would frustrate the exigencies of administration to enforce decorum and ensure probity. Judged from these spectrums, we are of the considered opinion that the order of transfer transferring the Appellant from Jabalpur Division to Bhopal Division is neither violative of any mandatory statutory rule nor is it vitiated being reeked with mala fide. Hence, we perceive no merit in this appeal.

We have concluded and held that appeal is sans merit, however, we would like to grant liberty to the Appellant to join at the transferred place by 15-6-2007 positively. The employer would be well advised not to take any action against him for delayed joining.