
(2020) 08 MP CK 0183
In the Madhya Pradesh High Court
Case No : Writ Petition No. 8459 Of 2020

Dilip Singh Gound

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 21-08-2020

Acts Referred:

Citation : (2020) 08 MP CK 0183

Hon'ble Judges : Vishal Dhagat, J

Bench : Single Bench

Advocate : D.K. Tripathi, Jubin Prasad, P.S. Gaharwar

Final Decision : Dismissed

Judgement

Petitioner by filing the present writ petition has called in question order dated 08.06.2020, contained in Annexure P/1. By said order, petitioner, who is holding the post of Forester, has been transferred from Chakra Nursery to Amanga nj Nursery. It is stated in the order that complaints of illegal felling of trees and irregularities in nursery are received against the petitioner and such act falls within class of irregularity and negligence. Due to said reason, till further orders petitioner was given duty at Amanganj Nursery, Panna and was asked to handover charge to Shri Dhani Ram Gond.

Petitioner has challenged the aforesaid transfer order on the ground that impugned order is stigmatic in nature and before passing of order, no opportunity of hearing was given. Petitioner has been transferred with malafide intention to give illegal benefits to respondent No.4. No enquiry is initiated against the petitioner in respect of illegal felling of sandal and sal trees and Mahesh Goswami, Forest Guard is responsible for felling of trees. Petitioner has been transferred during ban period and order is contrary to the transfer policy. There was no proposal or recommendation by the Committee for transferring of petitioner, therefore, order is bad in law. There is complete ban of transfer after 15, July 2019, therefore, transfer order could not have been passed.

Respondent No. 4 has filed its reply and opposed the writ petition.

It is submitted by the counsel for the respondent No.4 that petitioner has the charge.

Counsel appearing for the State Government after receiving instructions from the office of Chief Conservator of Forest, Research and Extension, Sagar had submitted that impugned order is not punitive in nature and, in fact, only an assignment of duty. Said order does not cast any personal stigma on the petitioner. He was only attached to Amanganj so that enquiry against petitioner is not affected. Documents dated 18.06.2020 and 27.06.2020 are placed on record to show that petitioner is attached to Amanganj as enquiry is initiated against him and his reply to show cause notice was not found satisfactory. On basis of aforesaid, prayer was made for dismissal of writ petition.

Considered the argument raised by the petitioner as well as by respondents.

On going through the impugned order dated 08.06.2020, it is found that no finding is given regarding the guilt of the petitioner, therefore, order is not stigmatic in nature. Order only says, "complaint is received against the petitioner. Such complaints are in regard to negligence and irregularity. In view of complaints, petitioner has been transferred to Amanganj Nursery, Panna. Document filed by the respondents-State dated 18.06.2020 shows that petitioner was transferred so that enquiry at Chakra Nursery may not be affected. Further document dated 27.06.2020 filed on 14.07.2020 shows that reply filed by the petitioner to show cause notice was not found satisfactory, therefore, he was asked why not a departmental enquiry may be initiated against him and action may also be taken for recovery of the amount. Aforesaid documents show that petitioner was transferred so that fair departmental enquiry can be conducted. On basis of complaint, employee can be transferred and it does not cast any stigma on the concerned employee. In Digitally signed by transfer policy, there is no bar in transferring an employee during the ban period. Guideline issued by the State Government does not have any statutory force. The petitioner fails to establish any malafide, due to which he has been transferred.

Counsel appearing for petitioner has relied on the judgment dated 06.05.2011 in case of K.D. Verma vs. State of M.P., reported in ILR [2011] M.P., 1720. In this judgment, it has been held that mere complaint by head of district political party cannot be made foundation for transferring an employee from one place to another place. Said judgment is distinguishable and is not applicable in case of petitioner. In case of K.S. Verma (supra) petitioner has lodged F.I.R. against certain persons on basis of directions issued by Controller Weight and Measures, Bhopal and petitioner was honestly discharging his duty. In the present case, there is a complaint against petitioner that he is involved in illegal felling of trees and irregularities in the nursery. He is transferred so that enquiry may not be affected. In view of said facts, petitioner do not get any benefit from case of K.S. Verma (supra). Impugned order of transfer of petitioner dated 08.06.2020 is

administrative in nature and no hearing is required before passing of such order, as petitioner is not visited with any adverse consequences.

In view of aforesaid discussion, writ petition filed by the petitioner is dismissed.