
(2013) 06 MP CK 0030

In the Madhya Pradesh High Court

Case No : Review Petition No. 220 of 2013

Dr. Anoop Pradhan

APPELLANT

Vs

State of M.P. and others

RESPONDENT

Date of Decision : 19-06-2013

Acts Referred:

Citation : (2013) 06 MP CK 0030

Hon'ble Judges : Sujoy Paul, J

Bench : Single Bench

Advocate : O.P. Saxena, for the Appellant; Praveen Newaskar, Deputy Government Advocate, for the Respondent

Judgement

Sujoy Paul, J.—By filing this review petition, it is prayed that the order passed by the Writ Court in W.P. No. 8512/2012(s) be recalled and the impugned order in the WP be quashed with further direction for payment of salary. Shri O.P. Saxena learned counsel for the petitioner placed reliance on a document dated 25/07/2012 Annexure-P/42 filed alongwith an application for submission of additional documents I.A. No. 2540/2013 in the WP. On the basis of this document, it is stated that the competent authority for the purpose of transfer of the petitioner to Community Health Centre (C.H.C.) Karhal is Director Health Services and the C.M.H.O. has no competence to transfer the petitioner. He submits that this Court while delivering the order, has not taken into account this document Annexure-P/42, which requires review. In addition, it is argued that by no stretch of imagination, C.M.H.O. can be treated as employer. By placing reliance on certain documents, it is argued that petitioner has not been relieved till date and is still working.

2. Shri Praveen Newaskar, Dy. Government Advocate submits that there is no reason for entertaining this petition.

3. In the opinion of this Court, Annexure-P/42 on which heavy reliance is placed in this review petition, was not part of pleadings and I.A. No. 2540/2013 was not

allowed. In addition, no reliance was placed on this document while arguing the writ petition by the petitioner. However, in the interest of justice, even if this document is carefully perused, this will show that in anticipation of posting of an employee to operate the Ultrasonography machine, petitioner was temporarily posted at district hospital Sheopur. Shri Saxena has projected this order with the contention that such posting can be made only by the Director and the C.M.H.O. has no authority to transfer the petitioner. This Court while deciding the WP has opined that Annexure-P/1 makes it crystal clear that the said order is not an order of transfer. The said order is an order passed in administrative exigency which does not amount to transfer. Thus, the grounds relating to transfer cannot be pressed into service against the impugned order Annexure-P/1 with the WP. A careful reading of Annexure-P/42 and P/1 show that in public interest, petitioner was directed to work on temporary basis at Sheopur. This neither amounts to transfer nor show that C.M.H.O. has acted beyond his authority. Annexure-P/42 only shows that if any employee is posted to operate the said machine, the arrangement would be discontinued. Thus, I find no reason to recall or review the order passed by this Court. As contended, if petitioner is already working at Karhal and Annexure-P/1 is not given effect to, he shall continue to work at Karhal and as directed by this Court in the WP, the competent authority will decide the representation, so preferred, by the petitioner. The other grounds argued by Shri Saxena amounts to rehearing of the matter, which is not permissible in the review jurisdiction. An administrative order like Annexure-P/1 can be interfered with by this Court only if it runs contrary to any statutory provision, infringes fundamental rights of the petitioner, passed by an incompetent authority or changes service conditions of the petitioner to his detriment. None of these ingredients are available in the present petition. I find no error apparent on the face of the record, which needs review. Review petition sans substance and is hereby dismissed. However, it is observed that if petitioner prefers representation as directed by this Court in the order of WP, it will be lawful for the authorities to decide it strictly within the time mentioned in the order.