
(2018) 07 MP CK 0120
In the Madhya Pradesh High Court
Case No : Writ Petition No.7867 Of 2018

Gyanendra Singh Jadon

APPELLANT

Vs

State Of Madhya Pradesh And Others

RESPONDENT

Date of Decision : 13-07-2018

Acts Referred:

Municipal Corporation Act, 1956 — Section 58(5), 58(6)

Citation : (2018) 07 MP CK 0120

Hon'ble Judges : S.C. Sharma, J

Bench : Single Bench

Advocate : L. C. Patne, Vivek Patwa, Manoj Musnshi

Judgement

The petitioner before this Court has filed present petition being aggrieved by order dated 28/03/2018 by which the petitioner has been transferred from the post of Executive Engineer from Ujjain to Gwalior.

02- The petitioner has raised the following grounds assailing the transfer order:-

â??i) Because the transfer of petitioner has been made malafidely and on request of respondent no.3 who was annoyed with petitioner for having initiated contempt proceeding against him.

ii) Because the transfer is not on account of administrative exigency but is to please respondent no.3.

iii) Because the respondent no.3 was annoyed with the petitioner that even after making request for his transfer he has passed the order thereby

putting petitioner in garden department and project cell in place of his earlier posting and as City Engineer Public Works and BSUP Scheme and Nodal

Officer of Engineering Department. A copy of said order is annexed as Annexure-P/16.

iv) Because the transfer of petitioner has been made dehors to transfer policy since petitioner has not completed 3 years service at Ujjain.â??

03- A reply has been filed in the matter and the respondents have stated that transfer order has been passed keeping in view the statutory provision as

contained under Section 58(5) and (6) of the Municipal Corporation Act, 1956 and also keeping in view the Madhya Pradesh Municipal Corporation

(Appointment and Conditions of Services of Officers and Servants) Rules, 2000.

04- The respondents have stated that the petitioner was transferred by an order dated 30/05/2015 to Ujjain for a limited purpose and the order dated

30/05/2015 itself reveals that the petitioner is being posted temporarily at Municipal Corporation, Ujjain to provide services in Simhastha â?" 2016.

05- In light of the aforesaid, as the Simhastha is already over, the respondents have passed the order which is under challenge. Not only this, the

respondents have place reliance upon a judgment delivered by the apex Court in the case of National Hydroelectric Power Corporation Limited Vs.

Sri Bhagwan & Another reported in (2001) 8 SCC 574 and the apex Court in the aforesaid case has held as under:-

â??5. It is by now well-settled and often reiterated by this Court that no Government servant or employee of public Undertaking has any legal right to

be posted forever at any one particular place since transfer of a particular employee appointed to the class or category of transferable posts from one

place to other is not only an incident, but a condition of service, necessary too in public interest and efficiency in the public administration. Unless an

order of transfer is shown to be an outcome of malafide exercise of power or stated to be in violation of statutory provisions prohibiting any such

transfer, the Courts or the Tribunals cannot interfere with such orders as a matter of routine, as though they are the Appellate Authorities substituting

their own decision for that of the Management, as against such orders passed in the interest of administrative exigencies of the service concerned.â??

06- The respondents have also placed reliance upon judgment delivered in the case of Shilpi Bose (Mrs.) and Others Vs. State of Bihar and Others

reported in 1991 Supp.(2) Supreme Court Cases 659. The apex Court in the aforesaid case has held as under:-

â??The Courts should not interfere with a transfer Order which are made in public interest and for administrative reasons unless the transfer Orders

are made in violation of any mandatory statutory Rule or on the ground of malafide. A Government servant holding a transferable post has no vested right to remain posted at one place or the other, he is liable to be transferred from one place to the other. Transfer Orders issued by the competent authority do not violate any of his legal rights. Even if a transfer Order is passed in violation of executive instructions or Orders, the Courts ordinarily should not interfere with the Order instead affected party should approach the higher authorities in the Department. If the Courts continue to interfere with day-to-day transfer Orders issued by the Government and its subordinate authorities, there will be complete chaos in the Administration which would not be conducive to public interest. The High Court over looked these aspects in interfering with the transfer orders.â??

07- Reliance has also been placed upon a judgment delivered in the case of State of U. P. & Others Vs. Gobardhanlal reported in (2004) 11 SCC 402

wherein the apex Court has passed the following order:-

â??A challenge to an order of transfer should normally be eschewed and should not be countenanced by the Courts or Tribunals as though they are

Appellate Authorities over such orders, which could assess the niceties of the administrative needs and requirements of the situation concerned. This

is for the reason that Courts or Tribunals cannot substitute their own decisions in the matter of transfer for that of competent authorities of the State

and even allegations of mala fides when made must be such as to inspire confidence in the Court or are based on concrete materials and ought not to

be entertained on the mere making of it or on consideration borne out of conjectures or surmises and except for strong and convincing reasons, no

interference could ordinarily be made with an order of transfer.â??

08- Reliance has also been placed upon a judgment delivered in the case of Rajendra Singh & Others Vs. State of U. P. & Others reported in (2009)

15 SCC 178 and the apex Court in the aforesaid case has held as under:-

â??9. The courts are always reluctant in interfering with the transfer of an employee unless such transfer is vitiated by violation of some statutory provisions or suffers from mala fides.

In Shilpi Bose v. State of Bihar This Court held:-

â??12. In our opinion, the Courts should not interfere with a transfer Order which are made in public interest and for administrative reasons unless the

transfer Orders are made in violation of any mandatory statutory Rule or on the ground of malafide. A Government servant holding a transferable post has no vested right to remain posted at one place or the other, he is liable to be transferred from one place to the other. Transfer Orders issued by the competent authority do not violate any of his legal rights. Even if a transfer Order is passed in violation of executive instructions or Orders, the Courts ordinarily should not interfere with the Order instead affected party should approach the higher authorities in the Department. If the Courts continue to interfere with day-to-day transfer Orders issued by the Government and its subordinate authorities, there will be complete chaos in the Administration which would not be conducive to public interest. The High Court over looked these aspects in interfering with the transfer Orders.â??

09- Again reliance has been placed in the case of State of Haryana & Ors. Vs. Kashmir Singh & Another reported in (2010) 13 SCC 306 wherein the apex Court has held as under:-

â??Transfer ordinarily is an incidence of service, and the Courts should be very reluctant to interfere in transfer orders as long as they are not clearly illegal. In particular, we are of the opinion that transfer and postings of policemen must be left in the discretion of the concerned State authorities which are in the best position to assess the necessities of the administrative requirements of the situation. The concerned administrative authorities may be of the opinion that more policemen are required in any particular district and/or another range than in another, depending upon their assessment of the law and order situation and/or other considerations. These are purely administrative matters, and it is well-settled that Courts must not ordinarily interfere in administrative matters and should maintain judicial restraint.â??

10- In light of the aforesaid, as the petitioner was transferred only for a limited period to Ujjain, the impugned order has rightly been passed in the matter. This Court does not find any reason to interfere with the impugned order. The admission is accordingly declined.

Certified copy as per rules.