
(2010) 09 MP CK 0082
In the Madhya Pradesh High Court
Case No : W.A. No. 813 of 2010

H.S. Tripathi (Dr.)

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 06-09-2010

Acts Referred:

Citation : (2011) ILR (MP) 603 : (2010) ILR (MP) 1032 : (2010) 2 MPHT 469 : (2010) 4 MPJR 335 : (2010) 3 MPJR 97 : (2011) 2 MPLJ 52 : (2010) 2 MPLJ 662

Hon'ble Judges : S.R. Alam, C.J.;Alok Aradhe, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Shri A. S. Raizada, learned Counsel for Appellant.

Shri Sankalp Kochar, learned Counsel for Respondent Nos. 1, 2 and 4.

This intra-Court appeal arises from the order of learned Single Judge dated 17-8-2010 passed in W.P. No. 10392/2010(s) whereby the writ petition preferred by the Appellant has been dismissed.

Learned Counsel for the Appellant vehemently contended that pursuant to the advertisement, the Appellant was initially appointed as Regional Director, Western Region, National Council for Teacher Education, Bhopal. He drew our attention to the letter dated 5-12-2006 contained in Annexure-P/1 and submitted that in unequivocal terms, it was mentioned in the application that the Appellant has applied for the post of Regional Director, Bhopal. He, however, submitted that in the letter of appointment which is contained in Annexure-P/4 dated 2-6-2010, the Respondents have mentioned that the Appellant has been selected for appointment as Regional Director in WRC, NCTE, Bhopal on deputation basis and his services will be governed by the provisions contained in the Department of Personnel and Training OM No. 2/29/91-Estt.(Pay-II) dated 5th January, 1994. Thus there is no justifiable reason for transferring him by the impugned order to Bhubaneswar. He further sought to argue that the impugned order of transfer

has been passed only with a view to accommodate Dr. P. K. Sharma-Respondent No. 4.

On the other hand Shri Kochar, learned Counsel for Respondent Nos. 1, 2 and 4 has opposed the prayer and submitted that due to administrative exigency Appellant's services were required at Bhubaneswar. Therefore he has temporarily been transferred to Bhubaneswar. He further submitted that instructions have been received by him through letter dated 3-9-2010 of Chairperson of National Council for Teacher Education in which it is clearly mentioned that the tenure of posting of the Appellant will not extend beyond 180 days.

It appears that the Appellant belongs to State University Services cadre and at the relevant time was working as Deputy Registrar. However, the post of Regional Director, NCTE, Bhopal was advertised through advertisement contained in Annexure-R/1. The Appellant also applied for the aforesaid post through application dated 5-12-2006 contained in Annexure P/I for the post of NCTE, Bhopal. Though, it is true that he applied against the post of Regional Director Bhopal, however, the advertisement contained in Annexure-R/1. A perusal thereof clearly indicates that as per Clause 2 of the General Instruction, the officer selected will be posted at NCTE Head Quarter, New Delhi or at any of the Regional Committees at Jaipur, Bhopal, Bhubaneswar and Bangalore or any other Regional Committee that may be set up later. The said Clause further provides that the officer can be transferred from one Offices to another depending upon the administrative exigencies. Thus, the Appellant though appointed no doubt for the post at Bhopal which he joined with open eyes that the selected officer can be shifted from one Regional Committee to other on administrative exigency. We are of the view that a candidate applying pursuant to the advertisement will have to abide and will govern by all the terms and conditions given in the advertisement and therefore, after having selected/appointed cannot renounce the other conditions on the pretext that he applied for a particular post and, therefore, the conditions of the advertisement regarding transfer to another office cannot be invoked against him. A candidate is bound by all the terms and conditions of the advertisement.

Learned Single Judge has, therefore, rightly found that the order of appointment issued by the NCTE does not indicate in any manner whatsoever, that the post held by him or the appointment is on a non-transferable post and as such he will always remain at Bhopal during the period of appointment and, therefore, we have no reason to differ with the view taken by the learned Single Judge. Besides that, admittedly, the Appellant pursuant to impugned order of transfer has already submitted his joining at Bhubaneswar about more than one month back. The Respondents in an unequivocal term have stated that the Appellant has been transferred on account of administrative exigency. It is not the case of the Appellant that the order of transfer is made in violation of any statutory rule or regulation or the same suffers from vice of mala fide. Further the tenure of posting of the Appellant at Bhubaneswar is only for a period of 180 days. For the

aforementioned reasons, we do not find any merit in the appeal.
It is accordingly dismissed.