

(2006) 03 MP CK 0032

In the Madhya Pradesh High Court

Case No : Miscellaneous Petition No. 3139 of 1992

Indore Development Authority Engineers' Association

APPELLANT

Vs

State of Madhya Pradesh and Another

RESPONDENT

Date of Decision : 06-03-2006

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 19, 19(1), 226
Madhya Pradesh Municipal Corporation (Amendment) Act, 1982 — Section 58(5), 58(6)
Madhya Pradesh Nagar Tatha Gram Nivesh Adhiniyam, 1973 — Section 38, 46, 47, 48, 48(2)
University of Agricultural Sciences Act, 1963 — Section 7(4), 7(5)

Citation : (2006) ILR (MP) 524 : (2006) 2 MPHT 529 : (2006) 4 MPLJ 45

Hon'ble Judges : A.K. Patnaik, C.J.; Dipak Misra, J

Bench : Division Bench

Advocate : Kishore Shrivastava and P. Dharmadhikari, for the Appellant; Sanjay Yadav, Dy. A.G. for the Respondent No. 1, for the Respondent

Final Decision : Dismissed

Judgement

A.K. Patnaik, C.J.

In this writ petition, the petitioner has challenged the provisions of Sub-sections (2-A), (2-B), (2-C), (2-D) and Sub-section (6) of Section 76-B of the Madhya Pradesh Nagar Tatha Gram Nivesh Adhiniyam, 1973 as amended by Act 11 of 1991 as ultra vires and unconstitutional.

The relevant facts are that the petitioner is an Association of officers/employees of Indore Development Authority. The Indore Development Authority was constituted u/s 38 of the Madhya Pradesh Nagar Tatha Gram Nivesh Adhiniyam, 1973 (for short "the Act"). The Indore Development Authority appointed various officers and servants u/s 47 of the Act. The Act was amended by Act No. 4 of 1983 introducing a new Chapter IX-A on Development Authorities Services. Section 76-B in the said new Chapter IX-A provided for constitution of Development Authorities Service. The Government of Madhya Pradesh in exercise

of its powers under Sub-section (2) of Section 76-B of the Act introduced by Act No. 4 of 1983 framed the Madhya Pradesh Development Authorities Services (Officers and Servants) Recruitment Rules, 1987 (for short "the 1987 Rules"). The validity of the 1987 Rules was challenged by the petitioner in M.P. No. 225/1989. During the pendency of the said M.P. No. 225/1987, the Act was further amended by Act No. 11 of 1991 amending Sections 46, 47, 48, 67 and 76-B of the Act and inserting a new Section 76-BB in the Act. By order dated 19th January, 1996, the High Court dismissed the M.P. No. 225/1989 on the round that it has become infructuous in view of amendment introduced by Act No. 11 of 1991 and the petitioner had not challenged the provisions of the Act as amended by Act No. 11 of 1991.

The petitioner filed this writ petition under Article 226 of the Constitution challenging the validity of the provisions of Section 76-B of the Act as amended by Act No. 11 of 1991 which inter alia provided for transfer of officers and servants from one Development Authority to another. In accordance with the said provision, several employees of Indore Development Authority were transferred to other Development Authorities by the State Government by order dated 30-7-1992. On 17-9-1992, the Court while admitting the writ petition, stayed the operation of the order dated 30-7-1992 until further orders in so far as it related to the employees of the Indore Development Authority. Thereafter, by judgment dated 26-9-1996, the writ petition was dismissed. The petitioner carried the matter to Supreme Court and by order dated 22-9-1997 passed in Civil Appeal No. 6572/1997, the Supreme Court set aside the aforesaid judgment dated 26-9-1996 and remitted the matter to this Court for consideration regarding the validity of the provisions of Section 76-B as amended by Act No. 11 of 1991.

Mr. Kishore Shrivastava, learned Counsel for the petitioner, submitted that Sub-section (6) of Section 76-B of the Act provided that the conditions of service applicable to a person finally absorbed in the Development Authorities Service applicable to him before his absorption, shall not be changed to his disadvantage by making them less favourable to him, except that he shall be liable to transfer from one Development Authority to another. He argued that the provisions of Sub-section (6) of Section 76-B making such person absorbed in the Development Authorities Service liable to transfer from Indore Development Authority to other Development Authority has the effect of changing the employer of such person without his consent. He submitted that in *Roshan Lal Tandon Vs. Union of India (UOI)*, , the Supreme Court has held that the origin of Government service may be contractual but once appointed to his post or office the Government servant acquires a status. He argued that this status of a Government servant cannot be terminated even by an Act as has been held by the Supreme Court in *The State of Mysore Vs. H. Papanna Gowda and Another etc.*, . He further argued that in *Jawaharlal Nehru University Vs. Dr. K.S. Jawatkar and Others*, , the Supreme Court found that the contract of employment was entered into between Jawaharlal Nehru University and Dr. K.S. Jawatkar and the Supreme Court held that no law can convert it into a contract

of employment between Manipur University and Dr. K.S. Jawatkar without simultaneously making it, either expressly or by necessary implication, subject to consent of Dr. Jawatkar. He vehemently argued that since Sub-section (6) of Section 76-B as amended by Act No. 11 of 1991 provides that a person absorbed in the Development Authority Service shall be liable to transfer from one Development Authority to another, the said Sub-section (6) is in fact changing the contract of employment of such person from one between the Indore Development Authority and such person to one between the Development Authority to whom he is transferred and such person.

Mr. Sanjay Yadav, learned Deputy Advocate General of State of M.P., on the other hand, submitted that once it is conceded that employment of a Government servant is a matter of status and not of contract even though it may have originated by a contract, the rights and obligations of a Government servant are no longer governed by the consent of parties but by the Act and Rules under the Act made by the legislature or the rule making Authority respectively. In support of this submission, he relied on the decision of the Supreme Court in *Roshan Lal Tandon v. Union of India* (supra) and *Dinesh Chandra Sangma Vs. State of Assam and Others*, . Mr. Yadav further submitted that in *Indore Nagar Nigam Karmachari Congress and Another Vs. State of Madhya Pradesh and Another*, a Full Bench of this Court has held that the decision of the Supreme Court in *Jawaharlal Nehru University v. Dr. K.S. Jawatkar* (supra) did not apply to a case where there is no transfer of employment but only transfer for a temporary period of an employee from one Municipal Corporation to another Municipal Corporation.

The contention of the petitioner is that there was a contract of employment between the Indore Development Authority and its officers and servants but this contract of employment is sought to be changed to a contract of employment between other Development Authorities in the State of Madhya Pradesh and the said officers and servants without their consent by providing in Section 76-B as amended by Act 11 of 1991 that such officers and servants of Indore Development Authority shall be liable to transfer to other Development Authorities in the State. This contention, in our considered opinion, is wholly misconceived. It is not disputed that such officers and servants of the Indore Development Authority were appointed u/s 47 of the Act. Section 48(2) of the Act as it stood before its amendment by Act 11 of 1991 provided that the State Government may make rules in respect of recruitment, qualification, appointment, scale of pay, leave, leave allowance, pension and other service conditions of the Chief Executive Officer and other officers and servants. The other conditions of service of the officers and servants of the Indore Development Authority thus were to be regulated not by consent or contract but by statutory rules to be made by the State Government. But, the State Legislature was empowered to amend the provisions of the Act. By Act of 11 of 1991, the State Legislature inter alia amended the provisions of Sections 47, 48 and 76-B of the Act. The said Sections 47, 48 and 76-B as amended by Act 11 of

1991 are quoted hereinbelow:

47. Other Officers and Servants.-- Every Town and Country Development Authority may have such other officers and servants as may be necessary and proper for the efficient discharge of its duties. Appointments to the post of officers and servants, included in the State cadre mentioned in Section 76-B of the Development Authority Services shall be made by the State Government and appointments to the posts of officers and servants included in the local cadre in the said services shall be made by the concerned Town and Country Development Authority:

Provided that no post shall be created in any authority save with the prior sanction of the State Government.

Condition of Service of Executive Officer and other Officers and Servants.-- The Chief Executive Officer appointed u/s 46 and other officers and servants appointed u/s 47 shall work under the superintendence and control of the authority subject to the provisions of the Act and the Rules.

76-B. Constitution of Development Authorities Service etc.-- (1)

With effect from such date as the State Government may, by notification, appoint in this behalf, there shall be constituted the Development Authorities Service for the purpose of providing officers and servants to all Development Authorities in the State. The Development Authorities Service shall consist of--

- (a) cadre of Development Administrative Officers;
- (b) cadre of Development Engineers;
- (c) cadre of Development Planning Officers;
- (d) Such other cadres to be determined by the functions entrusted to the officers included in the cadre for carrying out the purposes of this Act, as the State Government may by notification specify. Each cadre shall consist of--
 - (i) the State Cadre,
 - (ii) the Local Cadre.

Each State Cadre and each Local Cadre shall have such grades and such number of posts with such designations as the State Government may, from time to time, by notification, specify. Appointments to posts in the grades included in the State Cadre shall be made by the State Government and the posts in the grades included in the Local Cadre shall be made by the Development Authority concerned.

(2) The State Government shall make rules for regulating the recruitment and the conditions of the service of persons appointed to the Development Authorities Service, and such rules may provide for exercise of the powers by such authorities including the Development Authorities as may be specified

therein.

(2-A) The salary, allowances, gratuity, annuity, pension and other payments required to be made to the persons appointed to any post in the Development Authorities Service in accordance with the conditions of their service shall be a charge on the fund of Development Authority concerned:

Provided that in the event of transfer of a person from one Development Authority to another, the Development Authority concerned shall be liable to contribute towards aforesaid payments in such proportion as the State Government may prescribe.

(2-B) A person appointed to a post in a grade in a cadre of the Development Authority Service shall be transferable from one Development Authority to another Development Authority to the same posts in the same grade in the same cadre or on promotion to a higher post in the same grade or a higher cadre.

(2-C) The State government may transfer any person appointed to a post in the Development Authority service either in the State Cadre or local cadre from one Development Authority to another Development Authority; and it shall not be necessary for the State Government to consult either the Development Authority or the officer or servant concerned before passing the order of transfer.

(2-D) Where the officer or servant transferred under Sub-section (2-C) belongs to local cadre, he shall,--

(i) have his lien on the post held, i.e., in the parent Development Authority;

(ii) not be put to disadvantageous position in respect of allowances which he would have been entitled had he continued in the parent Development Authority;

(iii) be entitled to deputation allowance at such rate as the State Government may, by general order, determine;

(iv) be governed by such other terms and conditions including disciplinary control as the State Government may, by general or special order, determine.

(3) The power to make rules conferred by Sub-section (2) shall include power to give retrospective effect from a date not earlier than the date appointed under Sub-section (1) to the rules or any of them but no retrospective effect shall be given to any rule so as to prejudicially affect the interests of any person to whom such rules may be applicable.

(4) All rules made under this section shall be laid on the table of the Legislative Assembly.

(5) The person holding the post of Chief Executive Officer or the persons holding the posts of other officers, and servants specified under Sub-section (1) on the date appointed under the said Sub-section (1), if confirmed, in the said posts before the 19th November, 1982 shall be permanently absorbed and included in the Development Authorities Service. The remaining persons holding the

aforesaid posts on the said date may, if found suitable after following such procedure as may be prescribed, be absorbed in the service either provisionally or finally. If any person is not absorbed finally in the service, his services shall be liable to be terminated at any time on payment of one month's salary last drawn by him.

(6) Where any person referred to in the aforesaid Sub-section is finally absorbed in the service as provided therein, the conditions of service applicable to him immediately before his absorption, shall not be changed to his disadvantage by making them less favourable to him, except that he shall be liable to transfer from one Development Authority to another.

A plain reading of Sections 47 and 76-B as amended would show that a Development Authorities Service was contemplated for the purpose of providing officers and servants to all Development Authorities in the State. Section 48 as amended provided that officers and servants appointed u/s 47 shall work under the Superintendence and control of the authority "subject to the provisions of the Act and the Rules". The proviso to Sub-section (2-A) of Section 76-B as amended, provided that in the event of transfer of a person from one Development Authority to another, the Development Authority concerned shall be liable towards payments of salary etc. in such proportion as the State Government may prescribe. Sub-section (2-B) of Section 76-B as amended provided that a person appointed to a post in a grade in a cadre of Development Authority service shall be transferable from one Development Authority to another Development Authority to the same posts in the same grade in the same cadre. Sub-section (2-C) of Section 76-B as amended provided that the State Government may transfer any person appointed to a post in the Development Authority service either in the State Cadre or local cadre from one Development Authority to another Development Authority. Sub-section (5) of Section 76-B as amended provided that persons holding the posts of officers and servants specified under Sub-section (1) on the date appointed under the said Sub-section (1) in the said posts before the 19th November, 1982, shall be permanently absorbed in the Development Authority Service. Sub-section (6) of Section 76-B as amended provided that where any person is finally absorbed in the Development Authorities Service, the conditions of service applicable to him shall not be changed to his disadvantage by making them less favourable to him, except that he shall be liable to transfer from one Development Authority to another. Hence, by Act 11 of 1991, one Development Authorities Service for the purpose of providing officers and servants to all development Authorities Service in the State of Madhya Pradesh has been made by the Legislature and the officers and servants of this Development Authorities Service were liable to be transferred from one Development Authority to another Development Authority in the State of Madhya Pradesh. The appointment of the officers and servants of the Indore Development Authority may have been contractual inasmuch as there may have been offer and acceptance resulting in a contract of employment between the officers and servants and the Indore Development Authority. But, as

indicated above, the appointment of the officers and servants of the Indore Development Authority were u/s 47 of the Act and the terms and conditions of their employment were to be governed by the provisions of the Act as amended from time to time. Once appointed to the respective posts and office, the rights and obligations of such officers and servants of the Indore Development Authority were no longer to be determined by the consent of both the parties but by the provisions of the Act as amended from time to time.

In *Roshan Lal Tandon v. Union of India* (supra), the Supreme Court held:

It is true that the origin of Government service is contractual. There is an offer and acceptance in every case. But once appointed to his post or office the Government servant acquires a status and his rights and obligations are no longer determined by consent of both parties, but by statute or statutory rules which may be framed and altered unilaterally by the Government. In other words, the legal position of a Government servant is more one of status than of contract. The hall-mark of status is the attachment to a legal relationship of rights and duties imposed by the public law and not by mere agreement of the parties. The emolument of the Government servant and his terms of service are governed by statute or statutory rules which may be unilaterally altered by the Government without the consent of the employee. It is true that Article 311 imposes constitutional restrictions upon the power of removal granted to the President and the Governor under Article 310. But it is obvious that the relationship between the Government and its servant is not like an ordinary contract of service between a master and servant. The legal relationship is something entirely different, something in the nature of status. It is much more than a purely contractual relationship voluntarily entered into between the parties. The duties of status are fixed by the law and in the enforcement of these duties society has an interest. In the language of jurisprudence status is a condition of membership of a group of which powers and duties are exclusively determined by law and not by agreement between the parties concerned.

(Emphasis supplied).

In *Dinesh Chandra Sangama v. State of Assam*, the Supreme Court, after quoting the aforesaid observations in *Roshan Lal Tandon v. Union of India*, has held that the conditions of service are regulated by statute made under Article 309 of the Constitution. In the present case, officers and servants appointed by the Indore Development Authority under the Act are not Government servants and therefore the provisions of Articles 309, 310 and 311 of the Constitution do not apply, but the legal position remains the same that once the officers and servants are appointed, the terms and conditions of their employment are not governed by contract and consent of the parties but regulated by the statute under which they are appointed and such statute can be amended unilaterally by the legislature.

In *State of Mysore v. H. Papanna Gowda etc.* (supra) (cited by Mr. Kishore Shrivastava), H. Papanna Gowda was appointed on 7-1-1959 as an Agricultural

Demonstrator in the Mysore Civil Service and his appointment was regularised after he was selected by the Public Service Commission on 27th August, 1959. By order dated 4-4-1964, he was transferred and posted as a Chemical Assistant of the Sugarcane Research Station, Mandya in the Department of Agriculture. The State Legislature then enacted the University of Agriculture Science Act, 1963 which came into force on 24-4-1964. Under Sub-section (4) of Section 7 of the said Act, the control and management of research and educational institutions of the Department of Agriculture, the Department of Animal Husbandry and the Department of Fisheries were to be transferred to the University of Mysore as and from such date as the State Government by order specify. Sub-section (5) of Section 7 provided that every person employed in every college under Sub-section (1) or any of the institutions in Sub-section (4) immediately before the appointed day or the date specified in the order under Sub-section (4), as the case may be, shall, as from the appointed day or the specified date, become an employee of the University on such terms and conditions as may be determined by the State Government in consultation with the Board of Regents of the University. By notification dated 29-9-1965, the control and management of a larger number of research and educational institutions were transferred to the University with effect from 1-10-1965 and the Agricultural Research Institute, Mandya where H. Papanna Gowda was working was one such institution. Not liking the change of his future prospects, as a result of the notification transferring the control and management of the control and management of the Agriculture Research Institute, Mandya to the University, H. Papanna Gowda filed a Writ Petition seeking a declaration that Sub-sections (4) and (5) of Section 7 of the said Act were invalid and for a further declaration that he be continued as civil servant under the State government. The argument put forth on behalf of H. Papanna Gowda was that he had been removed from a civil post under the State in contravention of the provisions of Article 311 of the Constitution. The Supreme Court held that for better or for worse, the notification resulted in extinction of the status of H. Papanna Gowda as a civil servant and confirmed the judgment of the High Court allowing the writ petition. In the aforesaid case of *State of Mysore v. H. Papanna Gowda etc.* (supra), H. Papanna Gowda was a member of the civil service of the State and held a civil post under the State and he could not be removed except in the manner provided in Article 311 of the Constitution. Since he was sought to be removed from the civil post under the State in contravention of Article 311 of the Constitution, the Supreme Court held that the notification resulted in extinction of status as civil servant in contravention of the provisions of Article 311 of the Constitution. But, in the present case, the officers and other servants of the Indore Development Authority were not members of the civil service under the State prior to amendment of 1991. Prior to Act, 1991, the officers and other servants of the Indore Development Authority were also not holding civil posts under the State. Therefore, they did not enjoy the protection of Article 311 of the Constitution. Rather, the officers and servants of the Indore Development Authority were appointed under the provisions of the Act and the terms and

conditions of the employment were therefore governed by the provisions of the Act. If the legislature amended the provisions of the Act by Act 11 of 1991 so as to provide for constitution of one Development Authorities Service for the entire State and for transfer of the officers and other servants from one Development Authority to another Development Authority, such provisions so long as they are within the competence of the State Legislature and did not contravene any constitutional provision cannot be held to be ultra vires the Constitution.

In *Jawaharlal Nehru University v. Dr. K. S. Jawatkar* (supra) (cited by Mr. Kishore Shrivastava), Dr. K.S. Jawatkar was offered the post of Asstt. Professor in the Political Science Division at the Centre of Post-Graduate Studies of the Jawaharlal Nehru University at Imphal for a period of two years by letter dated 21st March, 1979 of the Jawaharlal Nehru University and in accordance with the terms mentioned in the said letter dated 21st March, 1979 of Jawaharlal Nehru University, Dr. K.S. Jawatkar joined as Asstt. Professor. Thereafter, he was appointed as Asstt. Professor by a resolution of the Jawaharlal Nehru University dated 29-10-1979 on regular basis with effect from the date of his initial appointment, i.e., 29-8-1979 and he was also confirmed with effect from that date. In 1980, the Imphal Centre was transferred from Jawaharlal Nehru University to the Manipur University and the Syndicate of the Manipur University passed a resolution on 19th December, 1980 detailing the terms for the transfer of the Centre to the Manipur University and the Manipur Government requested the Jawaharlal Nehru University for transferring the Centre. The Jawaharlal Nehru University by its resolution dated 3rd February, 1981 accepted the proposal and authorised the Vice-Chancellor to transfer the Center to the Manipur University. Dr. K.S. Jawatkar filed a writ petition on 22-5-1982 in the Delhi High Court praying for quashing of the said resolution of the Jawaharlal Nehru University dated 3rd February, 1981 transferring his services to the Manipur University. The learned Single Judge of the Delhi High Court held that Dr. K.S. Jawatkar was confirmed as Asstt. Professor in the employment of Jawaharlal Nehru University in its Imphal Centre and was entitled to continue in service until he attained the age of 60 years and as his services were not specifically terminated, he is deemed to continue in the service of Jawaharlal Nehru University. The Division Bench of the Delhi High Court upheld the said view of the learned Single Judge that the services of Dr. K.S. Jawatkar could not stand automatically transferred from the Jawaharlal Nehru University to Manipur University by operation of law. The Jawaharlal University carried the matter to Supreme Court and the Supreme Court held that there can be no doubt whatever that Dr. Jawatkar continued to be employee of Jawaharlal Nehru University and his employment could not be transferred by the Jawaharlal Nehru University to the Manipur University without his consent notwithstanding any statutory provision to that effect whether in the Manipur University Act or elsewhere. The Supreme Court observed that the contract of service entered into by Dr. K.S. Jawatkar was a contract with Jawaharlal Nehru University and no law can convert that contract into a contract between Dr. K.S. Jawatkar and the Manipur University without simultaneously

making it either expressly or by necessary implication subject to the consent of Dr. K.S. Jawatkar.

The facts of the present case, on the other hand, are entirely different from the aforesaid case of *Jawaharlal Nehru University v. Dr. KS. Jawatkar and Ors.* (supra). In the said case of *Jawaharlal Nehru University v. Dr. K.S. Jawatkar and Ors.*, the terms and conditions of the employment of Dr. Jawatkar were not sought to be altered by amendments to the Jawaharlal Nehru University Act. The provisions of the Jawaharlal Nehru University Act were not being amended so as to provide for transfer of the employees of the Jawaharlal Nehru University, but the contract of employment was sought to be substituted by another contract of employment between Manipur University and Dr. K.S. Jawatkar which was not possible under law without the consent of both the parties including Dr. K.S. Jawatkar. In the present case, the officers and other servants of the Indore Development Authority were appointed under the Act and the terms and conditions of their employment were governed by the provisions of the Act. The Legislature which had made the Act had the legislative competence to amend the provisions of the Act so as to alter the terms and conditions of the employment. The officers and other servants of the Indore Development Authority at the time of their appointment under the Act were very much aware that the terms of their employment could be altered by amendments under the Act by the legislature. Under Articles 245 and 246, the power of the State Legislature to make any law or amend any law on matters enumerated in list II or the Seventh Schedule of the Constitution is only subject to the provisions of the Constitution. So long as the amendments made to the Act by the State Legislature were within the power of the State Legislature and were not in contravention of any provision of the Constitution, such amendments cannot be held to be invalid. Thus, the Act 11 of 1991 amending the provisions of the Act so as to provide for one Development Authorities Service and for transfer of the officers and servants working in one Development Authority to another Development Authority cannot be held to be invalid so long as the said Act 11 of 1991 is within the powers of the State Legislature and is not in contravention of the provisions of the Constitution.

Mr. Kishore Shrivastava, learned Counsel for the petitioner submitted that the provisions of Section 76-B of the Act as amended by Act 11 of 1991 in so far as it provides for transfer of officers and servants of the Indore Development Authority to other Development Authority is violative of Articles 14 and 19(1)(g) of the Constitution. We fail to see as to how the provisions of Section 76-B as amended by Act 11 of 1991 violates the rights of any officer or servant of the Indore Development Authority to carry on any occupation guaranteed under Article 19(g) of the Constitution. In fact, by the provisions in Sub-section (5) of Section 76-B as amended by Act 11 of 1991, persons holding the post of Chief Executive Officer or the posts of other officers and servants under the Indore Development Authority if confirmed before 19th November, 1982 have been permanently absorbed and included in the Development Authorities Service and the remaining persons holding the aforesaid posts if found suitable would also be

absorbed in the service either provisionally or finally. Hence, their continued employment in service has been insured by the said Sub-section (5) of Section 76-B as amended by Act 11 of 1991. The provision in Sub-section (6) of Section 76-B for liability of any such person finally absorbed in service to transfer from one Development Authority to another is equally applicable to all such persons finally absorbed in the Development Authority Service as also to persons appointed after the amendment to Section 76-B of the Act by Act 11 of 1991. The said provision thus is not in any way discriminatory and violative of Article 14 of the Constitution. The provision in Sub-section (6) of Section 76-B as amended by Act 11 of 1991 for transfer of an officer or servant from one Development Authority to another Development Authority cannot also be held to be arbitrary as any such transfer within the same service is a normal term of employment and the power given to the Competent Authority to make such transfer is to be exercised bonafide and in the public interest.

In *Indore Nagar Nigam Karmachari Congress v. State of Madhya Pradesh* (supra), Sub-sections (5) and (6) of Section 58 of the M.P. Municipal Corporation (Amendment) Act, 1982, providing for transfer on deputation of any officer or servant of a Municipal Corporation carrying a maximum scale of Rs. 400/- to any other Municipal Corporation were challenged and a Full Bench of this Court repelled the said challenge and held that the said Sub-sections (5) and (6) of Section 58 of the aforesaid Act were within the competence of the State Legislature and did not violate the provisions of Articles 14 and 16 of the Constitution and also did change the contract of employment of the employees of the Indore Municipal Corporation.

We therefore hold that Sub-sections (2-A), (2-B), (2-C), (2-D) and Sub-section (6) of Section 76-B of the Act as amended by Act 11 of 1991 are valid and constitutional and accordingly dismiss the writ petition and vacate the interim order dated 17-9-1992. Considering the facts and circumstances of the case, the parties shall bear their own costs.