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**(2014) 08 MP CK 0044**

**In the Madhya Pradesh High Court**

**Case No : Writ Petition No. 10972/2014**

Justin O.A.

APPELLANT

Vs

Union of India

RESPONDENT

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**Date of Decision :** 06-08-2014

**Acts Referred:**

Constitution of India, 1950 — Article 227

**Citation :** (2014) 08 MP CK 0044

**Hon'ble Judges :** Sushil Kumar Gupta, J;Rajendra Menon, J

**Bench :** Division Bench

**Advocate :** N.S. Ruprah, Learned Counsel, Advocate for the Appellant; R.S. Siddiqui, Learned Assistant Solicitor General, Advocate for the Respondent

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## **Judgement**

1. In this writ petition under Article 227 of the Constitution, challenge is made to an order dated 11th of July, 2014 passed by the Central Administrative Tribunal in O.A.No.200/443/2014 dismissing an application filed by the petitioner and refusing to interfere with an order of transfer.

2. Petitioner is working as a Junior Engineer (Civil) and is posted in the office of Project Manager C.O.D. Jabalpur. Vide order dated 24.5.2014, he has been transferred from Jabalpur to Bhopal. It is said that the transfer and posting has not been done in accordance to the transfer guidelines contained in the Command Manning Level Posting Batch, 2014. It is the case of the petitioner that as the benefit of ACP Scheme was not granted to him, he had filed an application before the Central Administrative Tribunal, which was allowed and the benefit of ACP Scheme was granted to him. It is said that because of the aforesaid order passed by the Central Administrative Tribunal granting him the benefit of ACP Scheme vide Annexure-A2 dated 4th of September, 2013, the departmental authorities were annoyed with him and malafidely have transferred him.

3. That apart, pointing out that the transfer guidelines as contained in Command Manning Level Posting Batch, 2014 have been violated in transferring the petitioner, the application was filed before the Central Administrative Tribunal.

The Central Administrative Tribunal negated all the contentions and held that the allegations of malafide are not proved and as far as the transfer guidelines are concerned, the same is an executive and administrative guideline and cannot be enforced by a Court of Law and after placing reliance on a judgment rendered by the Supreme Court in the cases of Union of India and Others Vs. S.L. Abbas, , State of Madhya Pradesh, and Another Vs. S.S. Kourav and Others, , National Hydroelectric Power Corporation Ltd. Vs. Shri Bhagwan and others, , N.K. Singh Vs. Union of India and others, and State of U.P. and Others Vs. Gobardhan Lal, , dismissed the application of the petitioner on the following grounds :

(a) That no malafides are made out.

(b) The guidelines are administrative in nature regulating the transfer, it cannot be enforced by the Court of Law in the limited power of judicial scrutiny available.

(c) The petitioner has worked in Jabalpur for 18 years and is being shifted in accordance with the scheme, where a tenure of 3 years is fixed for each posting.

4. Finding the transfer to be in administrative consideration, the application is dismissed by the Central Administrative Tribunal.

5. Even though, Shri N.S.Ruprah, learned counsel reiterated all the same grounds and tried to emphasize that the petitioner is being singled out for transfer only because he had approached the Court and was granted the benefit of ACP Scheme and by contending that his transfer to Bhopal is contrary to transfer guidelines, learned counsel seeks for interference.

6. Shri Siddiqui, learned counsel refuted the aforesaid and argued that the learned Central Administrative Tribunal having analyzed each and every aspect of the matter in detail based on the law regarding interference of transfer by Courts, no interference is called for.

7. We have considered the rival contentions and we have also gone through the entire record. It is seen from the record that the petitioner came to Jabalpur on transfer in the year 1993, he worked in Jabalpur for a period of four years and, thereafter, in the year 1997, he was transferred to Gwalior, he came back to Jabalpur in the year 2002 and now after a period of about 12 years, he has been transferred. Except for contending that as per Paragraph-35 & 36 of the guidelines, petitioner cannot be posted to Bhopal and further contending that because of the judgment rendered for granting the benefit of ACP Scheme to the petitioner on 4.9.2013 by the Central Administrative Tribunal, petitioner is being transferred, no statutory rule or regulation are brought to our notice on the basis of which, it can be said that the transfer of the petitioner is unsustainable.

8. The Supreme Court in the case of Gobardhan Lal (supra) has held that administrative guidelines for regulating transfer or containing transfer policies may only afford an opportunity to the employee concerned to approach higher authorities for redressal of the grievance but it cannot be used and enforced by the Court of Law for challenging the order of transfer. The same principle has

been followed by the Division Bench of this Court also in the case of R.S.Chaudhary Vs. State of MP and others ILR (2007) MP 1329. That being so, merely on the ground of violation of transfer guidelines, interference cannot be made until and unless malafides are made out or rules, regulation statutory in nature are found to be violated in the transfer of an employee.

9. In the present case, except for making a bald allegation that the petitioner is victimized because of his filing a case for grant of ACP Scheme, no cogent evidence or material is adduced before us to say that there is any malafide in transfer of the petitioner. Petitioner has remained in Jabalpur for more than 12 years and his transfer seems to be in accordance with the requirement of administration.

10. The learned Central Administrative Tribunal having gone through each and every aspect of the matter in accordance with law and having decided the question of transfer and it's interference based on the law laid down by the Supreme Court, we see no ground to interfere into the matter now at the instance of the petitioner in these proceedings.

11. Accordingly, finding no case made out for interference, this writ petition is dismissed.