
(2012) 10 MP CK 0118
In the Madhya Pradesh High Court
Case No : Writ Appeal No. 994 of 2012

Karan Singh

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 11-10-2012

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2012) ILR (MP) 2636 : (2013) 1 MPHT 40 : (2013) 1 MPLJ 443

Hon'ble Judges : Sushil Harkauli, Acting C.J.; Krishn Kumar Lahoti, J

Bench : Division Bench

Advocate : Smita Arora, for the Appellant; Jaideep Singh, Govt. Advocate for the State, for the Respondent

Judgement

1. Heard on the question of admission. This intra-Court appeal challenges the order dated 27-7-2012 passed by a learned Single Judge in W.P. No. 11161/2012.
2. The facts giving rise to this appeal briefly stated are that the appellant at the relevant time was posted as Constable" at Sagar District and was transferred vide order dated 14-7-2012 to the adjoining Chhatarpur District. The appellant challenged the said order of transfer on the ground of personal inconvenience, and on the ground that at his present place of posting he was senior. The learned Single Judge dismissed the writ petition on the grounds that the order of transfer cannot be interfered with under Article 226 of the Constitution of India on the ground of personal inconvenience and that due to transfer the appellant's seniority was not being affected.
3. We have heard learned Counsel for the appellant and the learned Counsel for the State.
4. Learned Counsel for the appellant submits that the appellant may be permitted to prefer representation and direction may be issued to the concerned authority to consider the representation of the appellant in accordance with the facts, the policy and the administrative exigencies.

5. Even, without filing of any writ petition, any employee is entitled to bring his problems to the notice of his employer, and in such an event, the employer should consider the same.

6. However, in the circumstances pointed out by the appellant, we direct if any representation is made by the appellant along with a certified copy of this order precisely pointing out his problems and indicating the relief sought, the same may be decided by the authority, competent to transfer the appellant, within a period of one month from the date of its receipt in accordance with the relevant factors.

7. Learned Counsel for the appellant submits that in the meantime, the transfer should be stayed.

8. It is well settled law by the Supreme Court that transfer is an incidence of service which cannot be interfered with under Article 226 of the Constitution of India until and unless the transfer is vitiated by malafide or is made in violation of any statutory provisions.

9. This would, in substance, mean that unless either of the aforesaid grounds exist, the High Court cannot entertain the writ petitions against transfer orders in view of the law declared by the Supreme Court. It would be anomalous for the High Court to say that though we cannot entertain the writ petition, we will grant interim relief. It is trite that interim reliefs are only in aid of the final relief, and consequently, no interim relief is permissible, where the final relief is not permissible.

10. In view of aforesaid, we are unable to agree with the contention put forth by the learned Counsel for the appellant for grant of a status quo order, which in effect means staying of the transfer order. Therefore, the contention is rejected. With the aforesaid direction, the writ appeal stands disposed of.