
(2012) 08 MP CK 0052

In the Madhya Pradesh High Court

Case No : Writ Petition No. 5656 of 2012

Mahendra Singh Raghuvanshi

APPELLANT

Vs

The State of MP and Others

RESPONDENT

Date of Decision : 08-08-2012

Acts Referred:

Citation : (2012) 08 MP CK 0052

Hon'ble Judges : Sujoy Paul, J

Bench : Single Bench

Advocate : S.S. Raghuvanshi, for the Appellant; Sangita Pachauri, Deputy Government Advocate, for the State, for the Respondent

Judgement

Sujoy Paul, J.—The petitioner is transferred from Essagarh to Chanderi. The petitioner has challenged the transfer on the ground that it is after the permissible period during which transfer orders could have been issued as per the policy. The petitioner is due for his retirement in August, 2014 is another ground to challenge the transfer order. The transfer order can be interfered with only when it runs contrary to the statutory provision, changes the service conditions of an employee to his detriment, issued by an incompetent authority or the transfer order is proved to be a malafide one, etc.

2. Division Bench of this Court in the case of R.S. Choudhary Vs. State of M.P reported in ILR (2007) M.P 1329 has held as under:-

"In view of the aforesaid pronunciation of law by the Apex Court in several cases, which we have referred hereinabove, we are of the considered opinion that the transfer policy formulated by the State is not enforceable as the employee does have a right and the Courts have limited jurisdiction to interfere in the order of transfer. The Court can interfere if there is violation of mandatory statutory rule or if the action of the Government is capricious, malicious, cavalier and fanciful. What would constitute these components that would depend on facts of each case as the same can be neither illustratively or exhaustively stated. In fact, that

is not warrantable to be stated. We proceed to hold that in case an order of transfer is assailed on the ground that there has been violation of the policy, the proper remedy is to approach the authorities by pointing out the violation and it is expected of the authorities to deal with the same keeping in mind the policy guidelines with utmost objectivity. Emphasis supplied

Petitioner's case is based on a transfer policy which is an executive instruction. I find no reason to interfere in the matter because of policy violation. Petition is not entertained. However, this will not preclude the petitioner to pursue his departmental representation.