
(2009) 08 MP CK 0027

In the Madhya Pradesh High Court

Case No : Writ Petition (S) No. 3458 of 2009

Mukesh Nahar

APPELLANT

Vs

State of M.P. and others

RESPONDENT

Date of Decision : 04-08-2009

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2009) ILR (MP) 2599 : (2009) 4 MPLJ 566

Hon'ble Judges : S.S. Kemkar, J

Bench : Single Bench

Advocate : L.C. Patne, for the Appellant; Suresh Garg, Government Advocate, for the Respondent

Judgement

Shantanu Kemkar, J.

Petitioner claims that he was appointed on the post of Assistant Engineer in the Irrigation Department of the State Government vide order dt. 23-1-1980 (Annexure R/I). He is aggrieved by the order dt. 23-5-2009 (Annexure P/I) by which he has been relieved from the Office of Narmada Valley Development Authority, Indore (for short NVDA).

According to the petitioner he was working in the NVDA and in the circumstances he could not have been sent in the irrigation department. By way of rejoinder the petitioner has brought on record the order dt. 23-5-2009 (Annexure P/20) by which the Secretary NVDA, Bhopal has returned the petitioner's services to the irrigation department (his parent department).

The petitioner on his appointment was posted at Narmada Project which was controlled by the irrigation department. On coming into existence the NVDA he along with many employees who were working in Narmada Project continued under NVDA. In the circumstances according to the petitioner his services could not have been sent back to the Irrigation/Water Resources Department. It is also the case of the petitioner that the Secretary, NVDA is not authorised to pass

order of repatriation/sending back of the petitioner to his parent department.

The respondents have filed reply and have justified the action of sending back to the petitioner/action of repatriation of the petitioner to his parent department. According to the respondents the petitioner's substantive post is Assistant Engineer. He was temporarily assigned the work of Deputy Director in the office of the third respondent. He being an employee of Water Resources Department his seniority is maintained in the Water Resources Department, therefore, he cannot claim as of right to remain posted in the NVDA. It is stated that on petitioner's submitting joining in the Water Resources Department in pursuance to the order dt. 23-5-2009 (Annexure P/20), appropriate posting orders will be issued. The respondents have also stated that since the post of Commissioner, NVDA was vacant the Secretary was empowered to discharge the functions of the Commissioner (Administration) of NVDA. It is also the case of the respondents that the Vice Chairman of NVDA is also the Principal Secretary of the Government of M.P., Narmada Valley Development Department and in the circumstances in view of Annexure R/5 the order is well within jurisdiction.

Having heard Learned Counsel for the parties I find no merit in this writ petition. The petitioner could not point out under which provision of law or under what authority he has right to remain posted at NVDA. As per the petitioner's own case he is an employee of Irrigation/Water Resources Department. In the circumstances if he has been sent back to his parent department it cannot be said that the order is illegal. The petitioner has not been able to point out any illegality warranting interference into the impugned order by this Court in exercise of jurisdiction under Article 226 of the Constitution of India. The impugned order has been issued by the authority competent for issuance of the same having regard to the additional submissions and the documents Annexure R/3 and R/5. It is also not disputed and as would be clear from Annexure R/2 that the petitioner's seniority is maintained in the Water Resources Department and for this reason also for all the practical purposes the petitioner is employee of Water Resources Department and therefore he cannot claim his retention in NVDA. Merely because other employees have been retained in NVDA and the petitioner is relieved for joining his parent department cannot be a ground to interfere into such an purely administrative matter. No mala fide or breach of any statutory rule could be established by the petitioner.

In the circumstances the petition fails and is hereby dismissed.