
(2013) 07 MP CK 0263

In the Madhya Pradesh High Court

Case No : Writ Petition No. 11833 of 2013

Pradeep Kumar Jha

APPELLANT

Vs

Comptroller and Auditor General of India and Others

RESPONDENT

Date of Decision : 24-07-2013

Acts Referred:

Citation : (2013) 07 MP CK 0263

Hon'ble Judges : Vimla Jain, J;Rajendra Menon, J

Bench : Division Bench

Advocate : Shashank Shekhar, for the Appellant;

Final Decision : Disposed Off

Judgement

1. Challenging the order dated 2.7.2013 passed by the Central Administrative Tribunal, Jabalpur dismissing an application filed by the petitioner, challenging an order of transfer, this writ petition has been filed. Petitioner is a Senior Divisional Account Officer working under the control of the Comptroller and Auditor General of India and was posted in W.R.D. Division No. 2 Shahdol. Vide order Annexure P-3 dated 18.6.2013 petitioner has been transferred to Kunti Dam Kajwa, Rajnagar, District Chhatarpur. Interalia contending that as per the transfer policy applicable in the establishment in question petitioner had given option for his posting in 5 distinct places, as well as station like Chhatarpur and he posted to a station for which he had not opted. Pointing out that once the transfer policy contemplates a provision for posting the employee in accordance to option submitted by him and when the petitioner submitted his option form for posting him in five distinct places, then ignoring the same and posting the petitioner to Kunti Dam Kajwa, Rajnagar is contrary to the policy and is said to be unsustainable.

2. Emphasizing that in station Chhatarpur, two persons junior to petitioner, who are Senior Divisional Account Officer, namely Shri D.K. Pancholi and Shri Nilesh Singh are being posted and petitioner is deprived of posting at his choice place,

challenge is made to the impugned order. It is also stated that petitioner's children are studying and in place where petitioner is posted there is no CBSC school and, therefore, he prays for interference into the matter.

3. We have heard learned counsel for the parties and gone through the impugned order. It has been found by the learned tribunal based on assertion made by respondents that petitioner is transferred to Kunti Dam Kajwa, Rajnagar in the same district of Chhatarpur looking to the workload and average expenditure per year at the place of posting of petitioner. In Chhatarpur station it was found that requirement of Senior Divisional Account Officer is not necessary and, therefore, taking note of administrative necessity petitioner is posted at station Kajwa. That being so, the reason given by the tribunal in paragraph 5 of the impugned order reads as under:

5. It is not in dispute that the applicant has opted for Chhatarpur station of the district as his second choice for Annual Transfer, 2013 and he has been transferred to Kunti Dam Division, Kajwa (Rajnagar), which also comes in District Chhatarpur. The transfer policy of Annexure A-4, envisages that transfers and postings of the Divisional Accounts Officer/Senior Divisional Accounts Officer, are to be governed by certain guidelines, and in the very heavy Division, Senior Divisional Accounts Officer are to be posted. Since the applicant, who is a Senior Divisional Accounts Officer, the respondents have posted him at Kunti Dam Division, Kajwa (Rajnagar) District Chhatarpur, where workload and average expenditure per year is much higher than the other two places at Chhatarpur where his aforementioned juniors Shri D.K. Pancholi and Shri Nilesh Singh have been posted (Annexure A-1 page 21).

4. The tribunal has thereafter referred to various judgments of the Supreme Court to show that transfer guidelines cannot be enforced and refused to interfere into the matter.

5. Having considered the submissions made by Shri Shashank Shekhar, learned counsel for the petitioner we see no reason to interfere into the order of tribunal. Merely because the transfer policy contemplates a provision for giving option, petitioner cannot insist upon his posting as per his option. Based on administrative consideration, petitioner has been posted in the same district for which he has given option i.e. Chhatarpur and based on administrative consideration, requirement of work and considering his seniority he has been posted in particular place in the same district. These are all administrative consideration which are to be evaluated by the administrative authorities and a decision taken. This court, in the absence of any malafide being pleaded in the matter, particularly when policy decision are taken by the State Government and transfer policy is beyond the purview of this writ court, in view of law laid down by the Supreme Court in the case of Union of India and Others Vs. S.L. Abbas, and a Division Bench judgment of this Court in the case of R.S. Choudhary Vs. State of M.P. ILR, 2007, MP 1329.

6. Accordingly, in the facts and circumstances of the case we see no reason to interfere into matter. However, if petitioner is still aggrieved, as is indicated by him, in his representation, respondent No. 2 & 3 are directed to consider and take a decision on the same in accordance to law, preferably within 30 days from the date of receipt of certified copy of this order.

7. With the aforesaid, this petition stands disposed of. Certified copy as per rules.