
(1998) 11 MP CK 0066
In the Madhya Pradesh High Court
Case No : Writ Petition No. 5275 of 1998

Ratnakar Singh Chouhan

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 10-11-1998

Acts Referred:

Administrative Tribunals Act, 1985 — Section 24

Madhya Pradesh Administrative Tribunal (Procedure) Rules, 1988 — Rule 8(2)(3)

Citation : (1999) 2 MPJR 111 : (1999) 2 MPLJ 676

Hon'ble Judges : R.P. Gupta, J;D.P.S. Chauhan, J

Bench : Division Bench

Advocate : R.N. Singh, for the Appellant; No appearance, for the Respondent

Final Decision : Dismissed

Judgement

The petition is directed against the order dated 29-10-1998 passed in O.A. No. 1583/98 whereby the M. P. Administrative Tribunal, Jabalpur disposed of the petition of petitioner Ratnakar Singh Chouhan as having become infructuous in view of the fact that subsequent order relating to the transfer dated 10-9-1998, whereby the petitioner was transferred as Commissioner, Municipal Corporation Rewa and also the order dated 17-9-1998, whereby the petitioner was transferred as Deputy Director/Project Officer, District Urban Development Authority, Satna have not been challenged.

Heard the learned counsel for the petitioner, Shri R.N. Singh.

Learned counsel for the petitioner made three-fold submissions. Firstly, the petitioner is not under the obligation to challenge the orders which are passed during the pendency of the matter before the Service Tribunal especially in the case where the Tribunal has granted interim relief staying the operation of the order dated 25-7-1998, whereby the order of the transfer of the petitioner was amended and he was transferred as Dy. Director, Urban Administration, Rewa. Secondly the Service Tribunal after having satisfied granted the interim relief

staying the operation of the order dated 25-7-1998, was not competent to dismiss the petition as having become infructuous. Thirdly, the frequent transfers especially in the case of mala fides, which though were not dealt with by the Service Tribunal, but the Tribunal saddled the respondent-State for paying Rs. 1,000/- as cost to the petitioner which in fact is in the background of uncontrolled frequent transfers.

So far as first submission is concerned, it has no substance as after passing of the subsequent orders dated 10-9-1998 and 17-9-1998 the earlier order lost its efficacy and the petitioner no more remain aggrieved, which in fact became non est. If he was aggrieved with the subsequent order, then he should have amended his petition as he did in the case of order dated 7-8-1998, whereby he was transferred as Additional Commissioner, Nagar Nigam Jabalpur, and which order was challenged by making amendment in O.A. No. 1583/98.

Second submission regarding granting of any interim relief does not confer any right on a person so far as final relief is concerned. The circumstances of the present cases were not that the subsequent orders were passed in disregard to the order of the Service Tribunal dated 28-7-1998 and as such second submission is also sans substance.

So far as third submission relating to mala fides is concerned, the same has not been dealt with in the impugned order and whether the point of mala fide was argued or not argued before the Service Tribunal is not clear. There is no averment in the petition that point relating to the mala fide was urged before the Service Tribunal and the same was not considered and no affidavit has been filed in this regard. Learned counsel for the petitioner invited the attention of the Court to paragraph 6.8 of the petition which does not speak specifically in regard to the mala fide that the same was argued and considered by the Service Tribunal. However, on this point this Court is not going to pass any order either way, in view of the decision of the Supreme Court in the case of Daman Singh and Others Vs. State of Punjab and Others, , relevant portion of which is extracted as below :

"13. ----- It is not unusual for parties and counsel to raise innumerable grounds in the petitions and memoranda of appeal etc., but, later, confine themselves, in the course of argument to a few only of those grounds, obviously because the rest of the grounds are considered even by them to be untenable. No party or counsel is thereafter entitled to make a grievance that the grounds not argued were not considered. If indeed any ground which was argued was not considered it should be open to the party aggrieved to draw the attention of the court making the order to it by filing a proper application for review or clarification. The time of the superior courts is not to be wasted in enquiring into the question whether a certain ground to which no reference is found in the judgment of the subordinate court was argued before that court or not?"

In view of above, we do not consider it a case worth interference under Article

226 of the Constitution of India, but this order will not come in the way of the petitioner to approach the Service Tribunal, if so advised.

With the above observation, the petition is dismissed.