

(2019) 09 MP CK 0050

In the Madhya Pradesh High Court

Case No : Writ Petition No. 12497 Of 2019

Ruby Monika Rawat

APPELLANT

Vs

State Of MADHYA PRADESH And Ors.

RESPONDENT

Date of Decision : 24-09-2019

Acts Referred:

Citation : (2019) 09 MP CK 0050

Hon'ble Judges : Vishal Mishra, J

Bench : Single Bench

Advocate : S.K. Sharma, Rishikesh Dutt Mishra

Final Decision : Disposed Of

Judgement

1. This petition has been filed feeling aggrieved against the transfer order dated 21.6.2019 passed by respondent No.2, whereby, the petitioner has been transferred from Bamori to Radhogarh on the basis of complaint which was never communicated to her and without issuing any show cause notice or holding any enquiry into the matter, she has been transferred.

Counsel for the petitioner has drawn attention of this court to annexure P/2 which is appointment order of the petitioner and has argued that the petitioner is a contractual employee and there is no such condition for transferring such an employee and in terms of the agreement entered into between the parties, the petitioner cannot be transferred. He further drawn attention of this court to Clause 11.6 of Human Resources Manual and submits that this condition has been arbitrarily applied on the petitioner whereas, it has no application on the case of the petitioner, as the petitioner is a contractual employee. Hence, the order impugned being, stigmatic order, he prayed for quashment of the transfer order.

Per contra, counsel for the State has opposed the prayer stating that the order impugned is justified in the facts of the case. He relied upon Clause 15 of the agreement which reads as under :

"द्वितीय पक्षकार की पदस्थापना स्थल में कोई परिवर्तन नहीं किया जायेगा। किन्तु यदि नियुक्तिकर्ता प्राधिकारी चाहे तो वह उसे उसकी पदस्थापना से भिन्नतर क्षेत्र में भी अतिरिक्त कार्य निष्पादित करने के लिये निर्देशित कर सकेगा।"

He has further drawn attention of this court to the agreement entered into between the parties, clause 7 of which reads as under :

"संविदा सेवा की अन्य शर्तों हेतु राष्ट्रीय स्वास्थ्य मिशन की मानव संसाधन मनुअल अगस्त 2014 एवं इसमें भविष्य में होने वाले (साथ ही पूर्व में हुये) संशोधनों के नियम लागू होंगे।"

He has further argued that for future conditions of service of contractual employees, amendment has been proposed for Manav Sansadhan Manual August, 2014 which will be applicable to the petitioner also. Considering that amendment, the petitioner can be asked to perform additional work at some other place. Considering that clause and in view of the complaints being received against the petitioner, she has been shifted to some other place to perform additional work vide impugned order, which is justified in the facts of the case. Hence, the transfer order does not call for any interference and this petition is liable to be dismissed.

Heard learned counsel for the parties and perused the record. From perusal of record, it is seen that the petitioner was appointed vide order dated 21.8.2012 on contractual basis. Condition No.15 of the agreement clearly points out that that employer can ask the employee to perform additional work at some other place then the place of posting. However, as per agreement, a contractual employee cannot be transferred.

Considering the aforesaid, no relief can be granted to the petitioner in the present petition. However, in view of the facts of the case, the petitioner is directed to approach respondents No.2 by resubmitting a detailed representation within seven days along with all relevant documents in support of her case including this order and in turn, the respondents No.2 will dwell upon the representation submitted by the petitioner and shall pass a self contained speaking order settling the grievance of the petitioner within a period of fifteen days therefrom under intimation to the petitioner. Till the decision on the representation, status quo is directed to be maintained.

It is made clear that this court has not expressed any opinion on the merits of the case.

Accordingly, this petition stands disposed of with no order as to the cost.

C.C. as per rules.