
(2006) 09 MP CK 0030
In the Madhya Pradesh High Court
Case No : Writ Petition No. 5753 of 2002

Sudesh Kumar Tiwari

APPELLANT

Vs

State of M.P. and others

RESPONDENT

Date of Decision : 11-09-2006

Acts Referred:

Citation : (2006) 4 MPLJ 384

Hon'ble Judges : Sushma Shrivastava, J; A.K. Mishra, J

Bench : Division Bench

Advocate : V.S. Shroti, with A.P. Shroti, for the Appellant; Dharmendra Sharma, Asstt. SG for Union of India and P.N. Dubey, Dy. A.G. for State, for the Respondent

Final Decision : Dismissed

Judgement

Petitioner is aggrieved by an order passed by SAT dismissing the original application as against the allocation of petitioner to the State of Chhattisgarh. Original Application No. 2885/02 was filed which was dismissed by the SAT on 28-9-2002.

Facts lie in narrow compass are that petitioner is holding the post of Asstt. Public Relation Officer. His services were allocated to State of Chhattisgarh. His wife is also in service. She is holding the post of Asstt. Grade III. Admittedly petitioner is in senior cadre as compared to his wife.

Allocation of the petitioner to State of Chhattisgarh as per his juniority in the cadre in which he was serving is not in dispute, his allocation was correct, however, wife opted for allocation of services to State of M.P. She expressed the desire not to be sent to State of Chhattisgarh. Petition was filed by petitioner submitting that his wife was allocated to State of M.P. His services should have been allocated to State of M.P. The Tribunal has dismissed the original application on the ground that as per guidelines issued by the Government the junior spouse in the cadre will follow the allocated State in the case of senior spouse. Wife of

the petitioner has made representation for retaining her services in State of M.P. She had expressed unwillingness to go to State of Chhattisgarh.

Shri V.S. Shrotri, learned Senior Advocate with Shri A.P. Shrotri, Advocate for petitioner, has submitted that as per the guidelines in para 2.6 read with clarification (P.9) issued by Government of India, Deptt. of Personnel and Training, on 21st November, 2001 particularly in view of proviso to para 3(i) the services of petitioner ought to have been allocated to State of M.P.

Shri Dharmendra Sharma, learned Asstt. SG, appearing on behalf of respondent-Union of India, has submitted that the instructions are clear and as per clarification it was open to the wife of the petitioner to pray for allocation of her services to the State of Chhattisgarh, as petitioner is senior cadre employee, wife is lower cadre employee; wife has expressed willingness to stay in State of M.P., as such it cannot be said that services of petitioner should have been allocated on the basis that his wife has opted to stay in State of M.P.

In order to appreciate the rival submissions it is necessary to quote the provision of para 2.6 of the instructions issued by the State Government on 29th September, 2000 and para 3(i) of the additional guidelines issued on 21st November, 2001 in the matter of final allocation on re-organization of the State of M. P. Para 2.6 is quoted below:

Para 3(i) of additional guidelines issued on 21st November, 2001 is quoted below:

3. After careful examination of the issues raised in these representations, the Central Government have now decided to issue the following additional guidelines for compliance by the successor State Governments and the SAC:

(i) Women employees belonging to the State services having an all State transfer liability or are working against posts which are not exclusively relatable to an area falling in one of the successor States, should be allocated to the successor States on the basis of their option only. However, in respect of such woman employee whose senior spouse is also a Government employee and who has been allocated in his cadre to one of the successor States based on his seniority position, the junior women spouse will follow the senior spouse. Provided that where such junior woman spouse, for reason to be recorded in writing, represents against her allocation to one of the successor States where her senior spouse has been allocated, such cases could then be considered by the SAC on merits/hardship and their recommendations sent to the Central Government for acceptance or otherwise.

It is clear from para 2.6 of the aforesaid guidelines read with additional guidelines that senior cadre employee has to go to the State concerned where his/her services have been allocated as per his juniority. It is not disputed that petitioner is senior in cadre as compared to his wife. Thus, he has been rightly allocated to State of Chhattisgarh. The junior women spouse has to follow the senior spouse. In the instant case, wife has expressed willingness to stay in

State of M.P., as such her services have been retained in State of M.P. She has expressed unwillingness to go to Chhattisgarh. It cannot be said that there is any violation of the aforesaid guidelines/additional guidelines issued by the Central Government, it was open to the wife of petitioner to file representation for her allocation to State of Chhattisgarh but she has opted otherwise. It does not follow from para 2.6 read with additional guidelines that senior cadre employee has to be sent to the State where junior cadre has opted. Thus, we find no merit in this writ petition. Same is hereby dismissed. No costs.