

(2017) 12 MP CK 0011
In the Madhya Pradesh High Court
Case No : 15627 of 2017

V R LOHIYA CHAIRMAN

APPELLANT

Vs

ASHOK GOSWAMI INTUC

RESPONDENT

Date of Decision : 12-12-2017

Acts Referred:

Citation : (2017) 12 MP CK 0011

Hon'ble Judges : Vandana Kasrekar

Bench : Single Bench

Advocate : Anoop Nair, Ashish Shrotri

Final Decision : Dismissed

Judgement

1. The petitioner has filed the present petition challenging the order dated 20.09.2017 passed by respondent no.2 thereby transferring the services of the petitioner.
2. The petitioner was working as Officer Grade-II at Rampur Branch, District, Chhatarpur of the respondent bank. He was promoted to the post of Officer Grade-I and transferred to Chandra Branch in Tikamgarh under the Regional Office Tikamgarh. In compliance of the said transfer order, the petitioner joined at Chandra Branch on 2nd June, 2017. As per the date of birth of the petitioner, the petitioner will retire on 31.12.2018. The respondents, thereafter passed an order dated 20.09.2017 thereby transferring the services of the petitioner from Tikamgarh Region to Sidhi Region. The said transfer order has been challenged by the

petitioner on the ground that it is violative of transfer policy dated 01.09.2016. He submits that as per the Clause 13(4) an officer is required to remain in a particular place ordinarily for a period of three years. Clause 13(11) further states that an officer is required to remain in one zone for a period of six years. Furthermore, Clause 13(6) says that any officer who is going to retire within a period of three years normally be adjusted in his home district, which is Chhatarpur in case of the petitioner. In view of the aforesaid, he submits that the impugned transfer order is violative of the said policy.

3. Respondent Bank has filed their reply and in the reply they have stated that the petitioner is Scale-II Officer in the respondent bank. After his promotion in Scale-II cadre he was transferred as Branch Manager Scale-II Branch at Chandera in Tikamgarh District on 22.05.2017. The petitioner assumed the charge of the post of Branch Manager Chandera Branch, it was found that he was not able to manage the Branch, therefore, the impugned transfer order has been passed. He further submits that the service conditions of the officers and employee are governed by the Regulation known as "Madhyanchal Gramin Bank Officers and Employees Service Regulation, 2010". It is submitted that as per Rule 74 of the aforesaid Rules every officer or employee can be transferred at any point of time looking to the administrative exigency. In the present case, respondent has stated that the services of the petitioner have been transferred on administrative exigency as he was not able to perform his duties as Branch Manager. The respondents further stated that the petitioner has already been relieved and in his place Shri Kishore Kumar Gautam has assumed the charge of post at Chandera Branch on 03.10.2017. Thus, the post on which the petitioner was working is not vacant.

He further submits that the transfer of an employee is an incident of service and no employee of public undertaking has legal right for being posted at any particular place. It is employer alone that can decide how to manage its employee. He further submits that so far as Clause 13(4),(6) and (11) of the transfer policies are concerned. There is nothing in the transfer policy which restrain the employer to transfer the employee at an early date if his working is found to be unsatisfactory. It is further submits that the transfer policy is merely a guideline and it is not required to be followed strictly particularly in a case when transfer is on administrative exigency and in public interest. He further relied on the judgment passed by the Division Bench of this Court in the case of R.S. Choudhary Vs. State of M.P. reported in 2007(2) ILR 1329 .

4. Heard learned counsel for the parties and perused the record. From perusal of the record, it reveals that the petitioner has filed the present petition challenging the order dated 20.09.2017 (annexure P-1) by which the services of the petitioner have been transferred from Tikamgarh Region to Sidhi Region. The said transfer order has been challenged mainly on the ground that the petitioner has only one year and three months for his retirement. The respondent Bank has framed the transfer policy and employee ordinarily or normally should not be transferred before completion of three years of service. However, Clause 12(e) provides that for protecting the interest of the Bank can transfer any employee before completion of normal tenure. In the present case, respondent Bank in the reply has stated that the work of the petitioner was not found to be satisfactory at Chandera Branch and, therefore, on administrative exigency, the services of the petitioner have been transferred to Sidhi Region. Thus, the transfer order of

the petitioner has been issued in accordance with the transfer policy framed by the Bank. The Division Bench of this Court in the case of R.S. Choudhary (supra) has held that the transfer policy is not enforceable as the employee does not have a right to remain at a place and the Court have limited jurisdiction to interfere into the order of transfer in absence of violation of mandatory statutory rule or the action is capricious and/or malicious. In the present case, the petitioner has failed to point out violation of statutory rules or have alleged any malafide against any of the officers of the bank, therefore, I do not find any reason to interfere into the said transfer order.

5. Accordingly, the petition is dismissed without any order as to costs.