

The High Court of Madhya Pradesh**WA.578.2020****[Dr. Nagendra Singh Rajput Vs. State of M.P. and others]****Gwalior dated 31.07.2020**

Shri Prashant Sharma, learned counsel for the appellant.

Shri MPS Raghuvanshi, learned Addl. Advocate General, for respondents No. 1 & 2/State.

Shri Alok Sharma, learned counsel for respondent No.3.

Learned counsel for the rival parties are heard through video conferencing.

1. The instant intra court appeal filed u/S. 2(i) of M.P. Uchha Nyayalay (Khand Nyay Peeth Ko Appeal) Adhinyam, 2005 (for brevity Adhinyam 2005) assails the final order dated 10/6/2020 passed in W.P. 8073/20, dismissing the petition in question filed u/Art. 226 of the Constitution whereby challenge was made to the order of transfer Annxeure-P/1, dated 4/6/2020 by which petitioner-appellant, an Assistant Veterinary Surgeon was transferred from Poultry Farm Raiu Bhind to Block Raun, District Bhind.

2. This court on the earlier occasion while taking cognizance had directed the State to seek instructions and file reply if possible on the question of modification/cancellation of an executed order of transfer which this court was of the view had not been considered by the leaned

single judge.

2.1. The State has filed I.A.No.2709/20 for vacating interim order passed by this court on 27/6/2020 revealing that the sole ground that was raised in the petition was of frequent transfer and of *mala fide* by alleging that the transfer was motivated by political compulsions. The respondents further disclosed that petitioner was posted at and around Gwalior town but within Distt-Gwalior since 2015.

3. After having heard learned counsel for appellant and learned AAG for the State, it is evident that the issue of cancellation/modification of an executed order of transfer was neither raised in the petition and therefore rightly not decided by learned single judge. Therefore this issue of frequent transfer cannot be raised for the first time in the present writ appeal. More so, the appellant has been posted within district Gwalior since last about 5 years and therefore the ground of frequent transfer does not hold any water.

4. Learned counsel for appellant further submits that on account of frequent transfer of private respondent, petitioner has been disturbed.

4.1 This aspect has been considered by learned single judge in the right perspective by recording a lawful finding that the earlier order of transfer from Banwar, district Gwalior to Rairu, district Gwalior was made on request of appellant vide P/2, dated 5/7/2019.

5. In regard to scope of challenge to an order of transfer, it is settled principle of service jurisprudence that transfer can be successfully challenged on very limited grounds such as order being passed on proven mala-fide, or in violation of constitutional or statutory provisions or by incompetent authority or visiting the transferred employee with adverse affect to his service conditions. In the considered opinion of this Court, none of the aforesaid legitimate grounds for successfully challenging the order of transfer are available to the petitioner/appellant in the present case.

6. In view of above, this court sees no reason to interfere in the well reasoned order passed by learned single judge.

7. Accordingly, the present appeal fails and is dismissed, sans cost.

(Sheel Nagu)
Judge

(Rajeev Kumar Shrivastava)
Judge

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