

HIGH COURT OF MADHYA PRADESH,
BENCH AT GWALIOR

W.P.No.18920/2021

(Udal Singh Tomar Vs. State of M.P. and others)

(1)

Gwalior, dated : 16.09.2021

Shri Devendra Sharma, learned counsel for the petitioner.

Shri Varun Kaushik, learned Government Advocate for the respondents/State.

Shri Alok Kumar Sharma, learned counsel for the Caveator.

I.A.No.12215/2021, an application for urgent hearing is considered and allowed.

Heard on the question of admission as well as interim relief.

By this petition, under Article 226 of the Constitution of India, challenge has been made to order dated 31.08.2021 (Annexure P/1), whereby petitioner, who is working as Assistant Project Officer, has been transferred from Janpad Panchayat Ghatigaon (Barai) District Gwalior to Janpad Panchayat Morar, District Gwalior, on administrative grounds.

Learned counsel for the petitioner submits the impugned transfer order is in blatant violation of the transfer policy. The impugned transfer has been done with the sole reason to accommodate the respondent No.3. The respondent No.3 has been shifted on her own request while the transfer of petitioner has been shown on administrative exigency. This kind of adjustment has not been recognized by any policy. Therefore, the transfer order is bad in law. Wife of the petitioner is posted as Assistant Grade at Ghatigaon, Barai and as per Clause 23 of the Transfer policy, husband and wife are to be posted together. Petitioner has already submitted a

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W.P.No.18920/2021

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(2)

representation before the competent authority, which is pending consideration. On these grounds, prays for quashing of the impugned order.

In response, learned Government Advocate submits that no interference with the order of transfer is warranted as the same has been done owing to administrative exigency. It is further submitted that the transferred place is only 35 km. away from the present place of posting. The petitioner is working since 2006 at the present place of posting. Therefore, the present petition being devoid of merit and substance deserves to be dismissed.

Having heard learned counsel for the parties, it is well settled in law that transfer is an incidence of service. Which employee should be posted where, is a matter for the appropriate authority to decide. Until and unless the transfer is vitiated by mala fide or is made in violation of any statutory provisions, the Court cannot interfere with the order of transfer. The Supreme Court while dealing with the scope of judicial review in the matter of transfer, held that transfer is an incidence of service and normally should not be interfered with by the Court. If any administrative guidelines recalling transfer of an employee are violated, at best the same confers the right on the employee to approach the higher authorities for redressal of his grievance. [See: **Union of India and Others v. S.L. Abbas, (1993) 4 SCC 357, State Bank of India v. Anjan Sanyal and others, (2001) 5 SCC 508, Public Services Tribunal**

HIGH COURT OF MADHYA PRADESH,
BENCH AT GWALIOR

W.P.No.18920/2021

(Udal Singh Tomar Vs. State of M.P. and others)

(3)

Bar Association v. State of U.P. and another, (2003) 4 SCC 104, State of U.P. and Others v. Gobardhan Lal, (2004) 1 SCC 402, R.S. Chaudhary and Others v. State of M.P. and Others, ILR (2007) MP 1329, Government of Andhra Pradesh v. G. Venkata 4 WP. No. 4738/2017 (Braj Kishore Paliwal Vs. State of M.P. and others) Ratnam, (2008) 9 SCC 345 and State of Haryana and Others v. Kashmir Singh and Another, (2010) 13 SCC 306].

In the instant case, the petitioner has been transferred on administrative grounds. He has not been able to make out a case of mala fide or violation of statutory rules, the twin grounds available for interference. The petitioner has no statutory right to remain posted at any particular place.

For the aforementioned reasons, the writ petition fails and is hereby dismissed.

(S.A.Dharmadhikari)
Judge

SP