

IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE ANAND PATHAK

ON THE 5th OF AUGUST, 2024

WRIT PETITION No. 22117 of 2024

SALIM KHAN

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

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Appearance:

Shri V.K.Dhakad, learned counsel for the petitioner.

Shri N.K.Gupta, learned Government Advocate for respondents/State.
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ORDER

1. The instant petition is preferred under Article 226 of the Constitution of India being crestfallen by order dated 25.07.2024 (Annexure P/1) passed by respondent No.2 whereby the petitioner, who is working as Patwari, has been transferred from Halka Kumhedi, Circle Datia Gramin, Tehsil Datia Gramin to Tehsild Bhandar, District Datia.

2. It is the submission of counsel for the petitioner that he is working on the post of Patwari and has been transferred from Patwari Halka Kumhedi, Circle Datia Gramin, Tehsil Datia Gramin to Tehsild Bhandar, District Dati and the said order has been passed on the basis of false and baseless complaints. It is further submitted that petitioner has been transferred on the complaint of a local politician when petitioner rejected to enter the name of a dead person in the revenue record. The father of petitioner has died and he is the only male member to look after his family. The children of the petitioner are studying in Kendriya Vidyalaya and the transfer will effect the education of his minor children. Therefore, his case may be considered.

3. Learned counsel for the respondent/State informed this Court that vide order dated 30.07.2024 a new incumbent has been posted in place of the petitioner. Thus, his case cannot be considered. However, he fairly submitted that if any representation is preferred then the same shall be taken care of as per law.

4. Heard the counsel for the parties and perused the documents appended thereto.

5. Transfer is an incident of service. No one much less petitioner has any vested right to be posted at a particular place of posting. It is well settled in law that

employer is the best judge to organize its work force and it is also well settled in law that a transfer order cannot be subjected to judicial review unless and until same is found to be influenced by malafide or arbitrary exercise of powers which petitioner fails to do so. Concept of equality as enshrined under Article 14 and 16 of Constitution of India, has no application to the cases of transfers.

6. However, in the present fact situation, this petition is disposed of with direction to the petitioner to prefer a fresh representation alongwith certified copy of this order raising all his grievances before the competent authority/respondents, as the case may be within 15 days, from today and if such representation is preferred then the same shall be considered and decided in accordance with law, within a period of one month from the date of submission of representation.

7. Petition is disposed of accordingly.



(ANAND PATHAK)
JUDGE