

**IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE  
BEFORE**

**HON'BLE SHRI JUSTICE SUBODH ABHYANKAR**

**ON THE 19<sup>th</sup> OF DECEMBER, 2023**

**WRIT PETITION No. 23239 of 2023**

**BETWEEN:-**

**SMT. PRITIBALA SINGH W/O SHYAM SUNDAR  
SINGH, AGED ABOUT 51 YEARS, OCCUPATION:  
SERVICE D7/18, TRIVENI VIHAR BEHIND D MART  
UJJAIN (MADHYA PRADESH)**

**.....PETITIONER**

**(SHRI VIKAS JAISWAL, ADVOCATE)**

**AND**

- 1. THE STATE OF MADHYA PRADESH DE-  
PARTMENT OF HOME AFFAIRS THROUGH  
ADDITIONAL CHIEF SECRETARY VALLABH  
BHAWAN BHOPAL (MADHYA PRADESH)**
- 2. DIRECTOR GENERAL HOME GUARD AND  
CIVIL DEFENCE JAHANGIRABAD, BHOPAL  
(MADHYA PRADESH)**
- 3. DEPUTY INSPECTOR GENERAL HOME  
GUARD AND CIVIL DEFENCE JAHANGIRA-  
BAD BHOPAL (MADHYA PRADESH)**
- 4. ROHITASH PATHAK OCCUPATION: COM-  
MANDANT CENTRE TRAINING INSTITUTE  
DIST. JABALPUR (MADHYA PRADESH)**

**.....RESPONDENTS**

**(BY SHRI MUKESH PARWAL, P.L./G.A. FOR STATE AND SHRI RANJEET  
SEN, ADVOCATE FOR RESPONDET No.4)**

.....

*This petition coming on for admission this day, the court passed the following:*

**ORDER**

Heard finally, with the consent of the parties.

2] This petition has been filed by the petitioner Ms. Pritibala Singh, who is presently posted as Divisional Commandant, Home Guards, Ujjain under Article 226 of the Constitution of India against the order dated 06.09.2023 passed by the respondent No.1. Vide the impugned order, the petitioner has been transferred from Ujjain to the Central Training Institute, Jabalpur on the same post.

3] In brief, the facts of the case are that the petitioner was appointed on the post of District Commandant vide order dated 11.03.2001, in District Seoni and from there, she was transferred to Shahdol in the year 2006, and to Vidisha, in the year 2011. In the month of January 2014, the petitioner was transferred to Jabalpur and in the year 2019, she has been transferred to District Ujjain on the post of Divisional Commandant, Home Guards, Ujjain from where she has been transferred to Jabalpur vide the impugned order dated 06.09.2023.

4] The grievance of the petitioner is that the transfer order has been passed in violation of the transfer policy as there was a ban going on at the relevant time and the husband of the petitioner was also working at Ujjain only, on the post of Additional Chief Executive Officer, Zila Panchayat, Ujjain and Chief Executive Officer, Janpad Panchayat, Ujjain. It is also stated that the petitioner's son is in class-12<sup>th</sup> and is due to appear in the Board Examinations and in the mid-

term, if her transfer is affected, it would gravely impact the interest of her son. It is further submitted that a representation in this regard was also filed by the petitioner, but the same was never decided. It is also submitted that Jabalpur is around 500 kms from Ujjain and thus, it would be extremely difficult for her to look after her son, who is in the crucial stage of his life.

5] The prayer is opposed by the counsel for the respondent No.4. A reply has also been filed by the respondent No.4, who has been transferred to Ujjain from Jabalpur on the post of the petitioner, and it is submitted that the respondent No.4 has already been relieved from his post on 07.09.2023, and has already submitted his joining at Ujjain on 08.09.2023. It is also submitted that the petitioner's husband was earlier posted at Indore and in the month of July only he has been transferred to Ujjain and thus, they have also not resided together in the earlier posting of petitioner's husband. It is also submitted that the transfer of petitioner from Ujjain to Jabalpur was purely administrative in nature and does not call for any interference.

6] A reply has also been filed by the counsel for the respondent Nos.1 to 3/State on the same lines and it is submitted that since the petitioner has not joined on her post, her charge at Jabalpur has been given to the other Officer, Ashish Khare on 12.09.2023, and thus, it is submitted that despite the availability of proper Officer, it is being headed by another Officer on additional charge affecting the organization. Thus, it is submitted that the petition deserves dismissal.

7] In rebuttal, counsel for the petitioner submits that the petitioner is not averse to the transfer order, however, she is only interested in

seeing to it that her son is able to give his exams without any inconvenience and stress. It is also submitted that the petitioner is ready to be transferred anywhere soon after the exams are over. Counsel has also relied upon the orders passed by this Court in identical cases giving a breather to the employee whose child was also studying in class XII.

**8]** Heard counsel for the parties and perused the record.

**9]** From the record it is apparent that the petitioner was posted as Divisional Commandant, Home Guards, Ujjain on 05.07.2019, and she has been transferred to Jabalpur on the same post vide order dated 06.09.2023. Thus, apparently, the petitioner has already completed around 5 years in Ujjain only.

**10]** This Court is also of the opinion that the petitioner is posted as a Divisional Commandant, Home Guards which is a coveted position even for any high ranking officer, let alone the home guards, and apart from that, it is also found that on account of non-joining of the said post by the petitioner at Jabalpur, on account of the stay order dated 13.09.2023, passed by this Court, the respondents are forced to assign the charge of the said post to some other officer as additional charge, which certainly has an adverse impact on the overall morale and discipline of the force. This Court is of the considered opinion that the petitioner's line of duty is different from any other employee of the State Government, and she cannot claim parity with them, especially when she has already spent more than three years at Ujjain.

**11]** So far as the personal difficulties which the petitioner is facing are concerned, again, such difficulties are always faced by the

Government employees and cannot always be used as the reasons to resist the transfer. Non-compliance of the transfer policy is also not a ground available to the petitioner as the policy is not binding on the State Government.

**12]** In such circumstances, this Court is not inclined to interfere with the impugned order which does not appear to suffer from any illegality. Resultantly, the petition fails and is hereby *dismissed*.

**13]** However, the petitioner can still make a representation within a week's time from the date of receipt of the copy of this order, citing her personal difficulties, which shall be decided by the respondents in accordance with law, without being influenced by this order. The interim order passed earlier on 13.09.2023 stands vacated.

Petition stands *dismissed* and *disposed of*.

**(SUBODH ABHYANKAR)**  
**JUDGE**

**Bahar**