

**THE HIGH COURT OF MADHYA PRADESH****WP-18347-2021**

(JYOTI BACHLE vs THE STATE OF M.P.)

**JABALPUR****DATED : 23.09.2021****Heard through Video Conferencing.**

Shri Pravesh Naveriya, learned counsel for the petitioner.

Shri Piyush Jain, learned Panel Lawyer for the respondents/State.

Heard.

By this writ petition, the petitioner, who is working as Patwari has challenged the transfer order dated 26.08.2021 whereby she has been transferred from Tehsil Office, Shahpur to Tehsil Office, Chicholi.

The submission of learned counsel for the petitioner is that the petitioner is a physically handicapped person, therefore, she cannot be transferred in view of clause 26 of the transfer policy dated 24.06.2021.

As against this, learned counsel for the respondents/State has supported the impugned order.

Having heard the learned counsel for the parties and on the perusal of the record, it is noticed that the transfer of the petitioner is on the administrative ground. It is a general transfer order whereby several such Patwaris have been transferred to different places. The transfer is by the competent authority and there is no statutory violation in passing the impugned transfer order.

So far as the ground raised by the learned counsel for the petitioner that the petitioner is handicapped, a perusal of Annexure P/4 indicates that the disability is only in respect of some hearing impairment, therefore, such a disability will not come in the way of the petitioner in complying with the transfer order.

That apart, the reliance of the petitioner is on clause 26 of the transfer policy but the Division Bench of this Court in the matter of **O.P. Sharma Vs. M.P. State Agriculture Marketing Board, Bhopal & Others** passed in W.A. No.958/2017 decided on 06.11.2017 has already held that the transfer policy is mere a guideline and it is not enforceable in the writ jurisdiction of this Court. In the said order, the Division Bench has held as under :

"15. An order of transfer of an employee is a part of the service conditions and such order of transfer is not required to be interfered with lightly by a court of law in exercise of its discretionary jurisdiction unless the Court finds that either the order is mala-fide or that the service rules prohibit such transfer or that the authorities, who issued the order, had not the competence to pass the order.

16. The Apex Court in the case of *Union of India vs. S.L. Abbas (1993) 4 SCC 357*, has observed that the Govt. instructions on transfer are mere guidelines without any statutory force and the Court cannot interfere with the order of transfer unless the said order is alleged to have been passed by malice or where it is made in violation of the statutory provisions. Thus, it is clear that the transfer policy does not create any legal right in favour of the employee.

17. It is well settled that even if the transfer order is passed contrary to the transfer policy then also the same cannot be a ground to be set aside the transfer order. The writ petition of the appellant regarding his repatriation is pending before Principal Seat at Jabalpur and there is an interim order in favour of the appellant."

The record further reflects that the transferred place is only 60 kms away.

Hence, in view of the above factual and legal position, I am of the opinion that no case for interference in the impugned transfer

order is made out. The writ petition is found to be devoid of any merit, which is accordingly **dismissed**.

**(PRAKASH SHRIVASTAVA)**  
**JUDGE**

DV