

**HIGH COURT OF MADHYA PRADESH****W.P.No. 21425/2021****(Ramashanker Viduaa Vs. State of M.P. and others)****Jabalpur, Dated : 20.11.2021**

Shri S.K. Soni, learned counsel for the petitioner.

Shri Akshat Shahagal, learned Panel Lawyer for the respondents/State.

The challenge is made to the order dated 31.08.2021, (Ann. P-1), whereby the petitioner has been transferred from Govt. Primary School, Surajpur to Govt. Primary School Matapur on administrative ground at a distance of 60 km.

The challenge is made on the ground that the petitioner was detected Covid -19 positive in the month of April 2021 and now he is facing post Corona complications. A representation to the aforesaid effect has been filed which is pending consideration before the authorities and has not been decided till date. An innocuous prayer is made to direct the respondents – authorities to consider and decide the pending representation within a stipulated time frame.

Counsel appearing for the State has no objection to the innocuous prayer but he submits that the transfer order was passed on 3.8.2021 and till date the petitioner has not joined the transferred place of posting. The petitioner is a Government Servant and is duty bound to comply with the order passed by the authorities. Even a Division Bench of this Court in the case of **Mridul Kumar Sharma Vs. State of M.P. Reported in I.L.R (2015) MP 2556** has held as under :-

"Transfer of a Government servant appointed to a particular cadre of transferable posts from one place to other is an incident of service. No Government servant or employee of public undertaking has legal right for being

posted at any particular place. Transfer from one place to other is generally a condition of service and the employee has no choice in the matter. Transfer from one place to other is necessary in public interest and efficiency in the Public Administration. Whenever, a public servant is transferred he must comply with the order but if there be any genuine difficulty in proceeding on transfer it is open to him to make representation to the competent authority for stay, modification, or cancellation of the transfer order. If the order of transfer is not stayed, modified, or cancelled the concerned public servant must carry out the order of transfer. If he fails to proceed on transfer in compliance to the transfer order, he would expose himself to disciplinary action under the relevant Rules, as has happened in the instant case. The respondent lost his service as he refused to comply with the order of his transfer from one place to the other".

It is submitted by learned counsel for the State that the representation will be considered and decided if the petitioner joins at the transferred place of posting.

Heard the learned counsel for the parties and perused the record.

After perusal of the record, it is seen that the transfer order is dated 31.8.2021 and till date the petitioner has not joined the transferred place of posting. A specific query is made to the counsel appearing for the petitioner whether the petitioner has joined the transferred place or not, he fairly submits that the petitioner has not joined at the transferred place of posting. The representation submitted by the petitioner is almost after one month of the transfer order. In such circumstances, as the representation is pending consideration, the same is directed to be decided by the respondent no. 4 within a period of 30 days from the date of

receipt of certified copy of this order. The petitioner is directed to join at the transferred place of posting. Only thereafter the representation will be considered by the respondent no. 4, as directed by the Division Bench of this court in **Mridul Kumar Sharma Vs. State of M.P. (supra)** case.

Needless to say that this court has not expressed any opinion on merits of the case.

The petition is disposed of.

**(VISHAL MISHRA)**  
**JUDGE**

*bks*