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WA-2110-2024

IN THE HIGH COURT OF MADHYA PRADESH  
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE ANAND PATHAK

&amp;

HON'BLE SHRI JUSTICE HIRDESH

ON THE 4<sup>th</sup> OF OCTOBER, 2024WRIT APPEAL No. 2110 of 2024*NEERU RAJPUT**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

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Appearance:

*Shri Kabir Qureshi- learned Counsel for appellant.*

*Shri A. K. Nirankari- learned Government Advocate for respondent No. 1/ State.*

*Shri Pavan Kumar Dwivedi- learned Counsel for respondents No. 2 and 3- MP Housing and Infrastructure Development Board.*

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ORDER

*Per. Justice Anand Pathak*

With the consent of learned Counsel for parties, matter is heard finally.

The present appeal has been preferred under Section 2(1) of Madhya Pradesh Uchcha Nyayalay (Khand Nyay Peeth Ko Appeal) Adhiniyam, 2005 taking exception to the order dated 11th of September, 2024 passed in Writ Petition No.26871 of 2024, whereby the writ petition preferred by the appellant (petitioner) has been disposed of with direction to decide the representation of the petitioner in accordance with law.

Precisely stated facts of the case are that the appellant (petitioner) is working on the post of Assistant Engineer in MP Housing and Infrastructure Development Board since November, 2011. It is the grievance of the appellant that she was subjected to frequent transfers in last two years. She is working as Executive Engineer (current charge) and at the relevant point of time, she was posted at



Division No.2, Gwalior from where she was transferred to Division No.1, Gwalior with additional charge of Guna. She preferred a petition (Writ Petition No. 26871 of 2024) in which certain directions have been given *vide* order dated 11th of November, 2024 for consideration of her representation. Being aggrieved by the said order, appellant preferred this appeal.

It is the submission of learned Counsel for appellant that the appellant was subjected to frequent transfers and, therefore, this appeal has been preferred. He relied upon the judgment of Single Bench of this Court (at Main Seat Jabalpur) in the case of **Sanjay Upadhyay vs. State of MP and Others (Writ Petition No.21175 of 2019, dated 03-12-2019)**.

Learned Counsel for respondents No.2 and 3 vehemently opposed the submissions. According to counsel for respondents No.2 and 3, after transfer of appellant to Division No.1 with additional charge of Guna, her representation was considered. Now she is posted at Division No.1. He refers Letter No.168/Ka.Pra.1/Mandal/2024, Bhopal dated 10-09-2024 (Annexure R/2-1) in which additional charge of Guna has been taken back. Now, she is posted at Division No.1. However, mis-interpreting the order dated 21-09-2024 passed by this Court, she assumes the charge of Division No.2. That was forcible taking of charge. He also relied upon the judgment passed by the Division Bench of this Court passed in the case of **Mridul Kumar Sharma Vs. State of MP, ILR 3 (2015) MP 2556** and submitted that representation ought to have been decided after concerned employee joins at transferred place of posting. He also relied upon the judgment of Division Bench of this Court in the case of **R.C. Tekam vs. The State of MP and Others, 2017 SCC Online MP 1178** and submitted that within the same city from one assignment to another, is not a case of frequent transfers. He also relied upon the judgment of Single Bench of this Court in the case of **Jitendra**



**Jain vs. State of MP, 2019 SCC Online MP 567** by which it has been held that in cases of Class II employees, frequent transfer cannot be taken. He further relied upon the judgment of Single Bench of this Court in the case of **KBL Shrivastava vs. State of MP, 2011 SCC Online MP 1869** and submitted that own request cannot be considered as frequent transfers. He further informed this Court that in fact, appellant is now within the same building from one floor to another and that is the only difference. He prayed for dismissal of appeal with cost.

Heard.

Even otherwise, 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 Articles 14 and 16 of Constitution of India, has no application to the cases of transfers.

It is the case where the appellant is working as Executive Engineer (in-Charge) in MP Housing and Infrastructure Development Board at Gwalior. Earlier, she was transferred from Division No.2 to Division No.1 with additional charge at Guna. Once, she filed a petition, then her case was considered and she has been posted at Division No.1. Both the Divisions are in city of Gwalior and as submitted, in fact, are in same building. Therefore, appellant has no occasion to agitate. Once, case of appellant has been considered by the Department, then in all fitness of things, it is expected and hereby directed to the appellant to join immediately at Division No.1, if she has not joined by now. Once, her case has been considered by the respondents-authorities, then the writ appeal appears to be



misconceived, hence, dismissed.

At this stage, learned Counsel for respondents No. 2 and 3 informs this Court that mis-interpreting the order dated 21-09-2024, the appellant joined at Division No.2.

It is hereby clarified that this Court has never given such liberty to the appellant to join at Division No.2. Appellant is directed to join at Division No.1 where she has been posted by the Department after duly considering her representation.

**Appeal stands dismissed.**

**(ANAND PATHAK)**  
**JUDGE**

**(HIRDESH)**  
**JUDGE**

MKB