

Rabendra Singh. Vs. Chief Secretary Commissioner, Railway Protection Forece

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Court : Madhya Pradesh

Decided On : Apr-20-2011

Judge : S.R.Alam; R.S.Jha, Jj.

Acts : Madhya Pradesh Uchcha Nyalaya (Khand Nyaypeeth Ko Appeal) Adhiniyam, 2005 - Section 2(1)

Appeal No. : W.A.No.392/2011

Appellant : Rabendra Singh.

Respondent : Chief Secretary Commissioner, Railway Protection Forece

Advocate for Def. : Smt. Amrit Ruprah

Advocate for Pet/Ap. : Shri. P.S. Tomar

Judgement :

1. Shri P.S. Tomar, learned counsel for the appellant. Smt. Amrit Ruprah learned counsel for the respondents No. 1 to 3. Heard on the question of admission.
2. This intra court appeal under Section 2(1) of Madhya Pradesh Uchcha Nyalaya (Khand Nyaypeeth Ko Appeal) Adhiniyam, 2005, is preferred against the order of

learned Single Judge dated 16.3.2011 in Writ Petition No.3094/2011(s), whereby the interim order granted on 17.2.2011 is vacated.

3. The facts giving rise to filing of this appeal briefly stated are that the appellant was initially appointed as Constable on 12.2.2001 and after completion of the training he was posted in Railway Protection Force Sholapur (Maharashtra).

4. Thereafter, the appellant was transferred to Chief Security Commissioner Reserve Company Jabalpur and again on 30.4.2007 he was transferred to Railway Protection Force, at Jabalpur. It is alleged that the appellant was assaulted by his senior officers. The appellant thereafter made a complaint in this respect.

5. The matter was also published in the local newspaper as a result, the appellant was transferred vide order dated 11.2.2011 from Jabalpur to Kota without any administrative exigency and in violation of the transfer policy. The appellant, being aggrieved by the aforesaid order dated 11.2.2011 preferred the Writ Petition No.3094/2011.

6. Learned Single Judge after hearing learned counsel for the parties at the admission stage of the writ petition, granted an interim order staying the order of transfer. However, the respondent on being noticed subsequently appeared, and moved an application for vacating the stay order.

7. The learned single Judge having noticed the fact that the appellant has been transferred on account of administrative exigency and further for the reason that he has remained at Jabalpur for more than seven years, vacated the interim order, hence this intra court appeal. The learned counsel for the appellant, vehemently, contended that the appellant has not completed seven years as has been observed in the order of the learned single Judge.

8. He further submits that the appellant though was posted in Jabalpur but in another capacity in C.S. Reserve Company and thereafter, he was transferred to Jabalpur Railway Station in RPF and thus, he has not completed the normal tenure of posting as has been observed by the learned single Judge.

9. Be that as it may, since it appears from the order of the learned Single Judge that the transfer of the appellant was made in administrative exigencies, therefore, in the absence of any bar in the rules, the transfer can be made even before completion of the normal period of posting.

10. We, therefore, do not find any reason to interfere with the order of the learned single Judge. At this stage, learned counsel for the appellant submits that the writ petition may itself be decided expeditiously by the learned single Judge. In our view, it would be open to the appellant to make an application before the learned Single Judge for early listing of the writ petition. With the above observation, this appeal stands dismissed.

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