

## **WP-15435-2016**

*(BHOLE RAM RANA Vs THE GENERAL MANAGER(HUMAN RESOURCES DEVELOPMENT) CENTRAL  
MADHYA PRADESH)*

**29-09-2016**

Shri Alok Tiwari, counsel for the petitioner.

Shri A.C.Thakur, counsel for the respondent/Bank.

With the consent, finally heard.

This is second round of litigation against the transfer order. Petitioner is transferred from Sobhapur branch (Hoshangabad) to Barhi branch (Katni). The transfer order dated 22.06.2016 was called in question in W.P.No.13412/16. This court disposed of the said petition by directing the respondents to decide the representation. Accordingly, the respondents passed the order dated 23.08.2016 and rejected the representation.

Shri Alok Tiwari, criticized this order by contending that petitioner is suffering from paralysis. His disability certificate is Annexure P/5. He cannot walk/ move without the help of assistant. In addition, it is submitted that petitioner has less than three years to retire and, therefore, as per transfer policy, he should not have been transferred. He further submits that by the impugned order the respondents intends to recover the cost of the litigation from the petitioner.

Shri Thakur, learned counsel for the Bank submits that petitioner's deficiency/ handicap is not to the extent it can be protected under the transfer policy. It is submitted that the clause relating to posting at the home district within three years is the enabling provision and it cannot be interfered in a writ petition. He submits that transfer policy is a guideline and does not have statutory force.

No other point is pressed by learned counsel for the parties.

I have heard the parties at length and perused the record.

The transfer policy shows that the persons who are suffering from paralysis which causes disability to the extent of fifty percent or above can be exempted from transfer. Petitioner's percentage of disability as per certificate Annexure P/5 is only forty percent. Apart from this, the language in the clause relating to transfer within three years from retirement is directory in nature and it is part of the policy which does not have any statutory backing.

Transfer order can be interfered with if it runs contrary to any statutory provision (not policy guideline), proved to be malafide, changes the service condition of an employee to his detriment or passed by an incompetent authority. Personal difficulties, inconvenience etc. cannot be the reason for interference. No such ingredient is available in the present petition.

This court has taken similar view W.P.No.19532/15 and dismissed the petition on 10.3.2016. The said order got stamp of approval from the Division Bench of this Court in W.A.No.174/16 (***M.L.Jain Vs. Central M.P.Gramin Bank***) decided on 25.04.2016.

It is noteworthy that Shri Thakur, learned counsel for the Bank fairly submitted that the Bank will not make any recovery from the petitioner in relation to any litigation cost. To this extent petition deserves to succeed. Rest of the relief relating to transfer are declined.

Petition is **dismissed** with the observation that respondent shall not recovery any litigation expenses from the petitioner.

(SUJOY PAUL)  
JUDGE

MKL