

## **WP-21343-2016**

*(B.R. CHOUHAN Vs THE STATE OF MADHYA PRADESH)*

**29-12-2016**

Shri A.S.Raizada, counsel for the petitioner.

Shri B.D.Singh, GA for the respondents/State.

I.A.No.17372/16 and 17373/16 for urgent hearing during winter vacation are taken-up.

For the reasons stated therein, IAs are allowed.

Petitioner is aggrieved by his transfer from Sausar to Balaghat. It is submitted that petitioner is due for retirement within 18 months. His application seeking transfer to Indore could not fetch any result. Now he has been transferred to a different place which is bad in law.

Learned counsel for the petitioner by placing reliance on the judgment of Supreme Court in ***T.S.R.Subramanian Vs. Union of India- 2013(15) SCC 732*** submits that the impugned order without constitution of Board, is bad in law.

Prayer is opposed by Shri B.D.Singh, GA.

During the course of hearing, this court asked learned counsel for the petitioner to point out the pleadings wherein it is averred that no such Board as directed by the Supreme Court in ***T.S.R.Subramanian (supra)***, is constituted by Govt. of Madhya Pradesh. Learned counsel for the petitioner is unable to show any such pleading.

Considering the aforesaid, the said judgment cannot be pressed into service.

Transfer is condition of service. Merely because petitioner's representation seeking transfer to Indore Division is pending, it

cannot be said that his transfer to elsewhere is impermissible. Considering the aforesaid, I find no reason to interfere in this matter. However, as held by Division Bench in ***R.S.Choudhary Vs. State of M.P-ILR 2007 MP 1329***, the petitioner may prefer a representation before the competent authority. If such representation is preferred, the competent authority shall consider and decide it within thirty days in accordance with law by a reasoned order. The outcome shall be communicated to the petitioner.

Petition is **disposed of** without expressing any opinion on merits of the case.

C.C as per rules.

(SUJOY PAUL)  
JUDGE

MKL