

ORDER SHEET

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL – Cum – LABOUR COURT,
JABALPUR (M.P.)

Date of Order of Proceeding	Order Or Proceeding with Signature of Presiding Officer	Remark
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Case No. CGIT/LC/RC/04/2023

Shri Jitendra Kumar Sharma V/S U.R.C. Canteen, Gwalior

17.01.2025	<p>Matter taken up.</p> <p>Learned Counsel Mr. Aditya Ahiwashi present for petitioner. Adv. Kanak Gaharwar Learned Counsel present for Management. Argument of Learned Counsel for petitioner with respect to application/objection of Management regarding the maintainability of the case before this Tribunal were heard and concluded. Learned Counsel for Management also submitted her reply arguments. Perused record.</p> <p>The petitioner has filed this case against alleged termination of his services by Management under an oral order on 13.05.2023 with allegations that it is unjust, arbitrary and illegal. Management has stated in its written statement against the petition that at no point of time the services of the Applicant Workman have been terminated by Management, in fact Management has transferred the Workman to Extension Counters at Bhind and Morena which he refused to comply and had been himself absenting from work.</p> <p>Learned Counsel for Management has submitted that this petition under Section 2A (2&3) of the Act is not maintainable because there is no discharge, dismissal, retrenchment or otherwise termination of services of the petitioner. Case of the petitioner is that he was appointed by Management and since the date of his appointment, he was continuously working with the Management till 12.05.2023. On 12.05.2023, he was orally instructed by the Officer in-Charge on behalf of Management to go to Bhind and Morena. He asked for a Transfer Order in writing on which the Management stopped taking work from him and also restrained him from entering in his work premises w.e.f. 13.05.2023, which amounts to oral termination of his services.</p> <p>The case of Management in its written statement is that the services of the Workman have not been terminated then apparently, there remains no dispute, but the fact whether the petitioner has himself being absenting to join work on his own or the Management has restrained the petitioner from</p>	
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	<p>working in his workplace, which amounts to oral termination of his services, is a matter of fact, to be decided after evidence.</p> <p>Assuming that the services of the petitioner have been not terminated and that he has been transferred to Bhind and Morena extension counters, the demand of a transfer order in writing by the petitioner cannot be held unjustified in law. The petitioner has taken a case that he is always been ready and willing to join his new place of posting. This is also beyond comprehension that how a person could be transferred at two places at a time, hence, no doubt the Management is in obligation in law to issue a signed transfer letter specifically mentioning the place of his transfer and deliver it to petitioner or file it before this Tribunal till next date of hearing.</p> <p>The second ground regarding the maintainability of the petition is that the Management is a Shop Registered in Shops and Commercial Establishment Act, hence not covered by Industrial Disputes Act, 1947. In the light of judgment of <i>Hon'ble Punjab and Haryana High Court in the case of Ram Sumer Versus P.O. CGIT, 1998 Vol. 3 LLJ 1151 (D.B.)</i> it has been laid down that the Act will apply even in case of establishments registered in Shops and Commercial Establishment Act. Hence, the second leg of argument also fails.</p> <p>In the light of above discussion and findings, the point of maintainability of the petition raised by Management cannot be accepted and holding the petition maintainable at this stage, it stands disposed accordingly.</p> <p>Management to file the original or duly authenticated signed transfer order after serving it within 15 days from today to the Petitioner, before next date.</p> <p>List on _____ for filing of signed transfer orders by Management as stated above.</p> <p>Upload this order.</p> <p style="text-align: right;">Presiding Officer</p>	