

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

COCP no.2321 of 2013(O&M)

Date of Decision : 02.09.2015

Sub. Shiv Singh

....Petitioner

Versus

Mr. S.K.Sharma and others

...Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER

Present : Mr.D.S.Kauntae , Advocate for the petitioner

Mr. Parminder Kanwar, Advocate for UOI

MAHESH GROVER, J.

The petitioner alleges violation of the orders dated 20.8.2013 by which status quo regarding service was ordered to be maintained. The order is extracted herebelow:-

“Learned counsel for the petitioner contends that the petitioner has been transferred from Andhra Pradesh to Gurdaspur on 24.4.2013 by competent authority-respondent No.4/Officer Incharge Records in the rank of Brig. When the petitioner joined at Gurdaspur, the Commanding Officer in 14 JAT thought it fit to move him to 45 Bn Kupwara (J&K). The Commanding Officer in Kupwara (J&K) issued an order dated 16.6.2013 (P-5) recording in claim No.10 that the petitioner is being returned to unit “RTN to 14 JAT on compassionate ground due to apply for premature discharge and unwilling to

serve with 45 RR Bn (JAT)". With this order, the petitioner came back to Gurdaspur. The Commanding Officer in Gurdaspur has retransferred him back to Kupwara. In the meantime, the petitioner applied for leave. The leave was sanctioned which expired four days back and the petitioner is now awaiting orders of posting/transfer or final decision of his discharge application. He has levelled personal mala fides against respondent No.7 that he is acting vindictively. In view of this, it is necessary to obtain response from the 7th respondent as well as respondent No.8 and the official respondents.

Notice of motion.

On the asking of the Court, Mr. R.S. Khosla, learned Assistant Solicitor General, Chandigarh, accepts notice on behalf of respondents No.1 to 6 and 9 to 12 and waives service on them.

Let notice be issued to respondents No.7 and 8 for 11.9.2013.

Process dasti as well.

Notice re: interim directions.

In view of the strange predicament, the petitioner has been placed into in order to serve justice there should be a status quo order as on today till the next date of hearing or till such time the stand of the Army is known in writing.

The petitioner undertakes to join duty at Gurdaspur positively by 23.8.2013 so that there is no further gap in performance of duty.

Learned counsel for the petitioner undertakes to supply nine sets of the paper book to Mr. Khosla during the course of the day.”

The petitioner in the entire petition has not specifically averred as to when the orders of this Court were communicated to the respondents, in particular, the person to whom it was communicated. It would be necessary in the instant case considering the fact that the petitioner belongs to the armed services where a particular officer in the hierarchy of the officers would have to be mentioned given the nature of institution he serves. Since the petition is silent in this regard and except for making vague allegations the specifics are missing, I do not deem it appropriate to proceed against the respondents unless such facts are clearly brought on record. Hence, dismissed.

September 02, 2015
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(Mahesh Grover)
Judge