

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

Civil Writ Petition No.1866 of 2015

Date of decision: 5.2.2015

Harbans Kaur

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.Madhav Pokhrel, Advocate,
for the petitioner.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J. (Oral)

Though the impugned transfer order dated 19th January, 2015 does not disclose the reason for transfer except that it was ordered on administrative grounds but the fact is that the petitioner is under a charge sheet where serious allegations have been made which are punishable under rule 8 of the Punjab Civil Services (Punishment & Appeals) Rules, 1970 and the conduct rules for major misconduct. Without commenting on those imputations, I do not find any ground to interfere in the order of transfer which has been made on administrative grounds even though it may be 2 months short of retirement. All the same, it is within the district and in motorable distance. The transfer policy of the State may suggest that the transfer normally should not be made short of retirement but that is not an

immutable rule and much would depend on the facts and circumstances of each case. It is trite to say that the transfer is an incidence of service and remains well within the jurisdiction of the employer to make order of posting by way of administrative requirements.

Learned counsel submits that a separate set of procedure has been laid down for transfer for exceptional reasons and that such procedure was departed from. I would only say that the present is not an exceptional case and, therefore, required no special procedure to be followed. I would only largely base this decision on the fact that the petitioner is a teacher whose life and work are meant to inspire students. If she fails on that front, then the equity and discretionary jurisdiction of this Court under article 226 of the Constitution, properly so called, may not be exercised in her favour by grant of a stay order or an admission of the case.

No merit. Dismissed.

(RAJIV NARAIN RAINA)
JUDGE

February 5, 2015
Paritosh Kumar