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

**CWP No.1867 of 2015
Date of Decision: 09.02.2015.**

MES No.314180 Shiv Dayal

.....Petitioner

Vs.

Union of India & others

.....Respondents

**CORAM: *HON'BLE MR. JUSTICE SURYA KANT*
*HON'BLE MR. JUSTICE RAJ MOHAN SINGH***

Present: Mr. K.B. Sharma, Advocate
for the petitioner.

1. *Whether Reporters of local papers may be allowed to see the judgment ?*
2. *To be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

SURYA KANT, J. (ORAL)

The order dated 28.01.2015 passed by the Central Administrative Tribunal, Chandigarh Bench (hereinafter referred to as 'the Tribunal') whereby it declined to interfere in the petitioner's transfer order dated 26.09.2014, is under challenge in this writ petition.

[2]. The petitioner who joined the Indian Air Force as a civilian in the rank of Lower Division Clerk, has been promoted as an Office Superintendent in due course of time. Vide the impugned transfer order, the petitioner has been transferred from the office of Garisson Engineer (AF) Suratgarh (Rajasthan) to the office of Chief Engineer

(R&D) Delhi Zone at New Delhi.

[3]. The petitioner laid challenge to the above-stated order before the Tribunal, *inter alia*, alleging that (i) his parent cadre is Western Command whereas vide the impugned order he was transferred to Northern Command which amounts to transfer outside the cadre (ii) the transfer order was passed on an erroneous premise that the petitioner is junior most Office Superintendent whereas there are several other officers junior to him who have been posted within the Western Command and (iii) the petitioner cannot be transferred outside from Western Command, for against the sanctioned cadre strength of 262, only 157 Office Superintendent are currently working.

[4]. The Tribunal has turned down the petitioner's claim after referring to the settled principles that the 'transfer' being an incidence of service and there being no violation of any Statutory Rule, it does not call for any interference.

[5]. We have heard learned counsel for the petitioner who has very vehemently reiterated the above-stated contentions. He further contends that the Western Command has a separate transfer policy and notwithstanding the directive that the transfer proposals are to be put up strictly in accordance with that policy, there is a complete go by in the petitioner's case.

[6]. We have given our thoughtful consideration to the

submissions made on behalf of the petitioner. Assuming that the petitioner has in fact been transferred outside his parent cadre of Western Command, does not mean that he would be made to suffer either in terms of seniority or promotion or any other financial loss. He will continue to retain his seniority in the 'parent cadre' and as and when his turn will come, it is obvious that he will be entitled to be considered for further promotion, may be on proforma basis.

[7]. Similarly, the transfer and posting of an employee are not necessarily the outcome of seniority consideration. In other words, if it is so required in the exigency of service, a senior person can be posted to have optimum utilisation of his experience and ability. Unless the transfer is tainted with *mala fide* or extraneous consideration, there is no rhyme or reason for the Court to interfere with such an order not passed for stigmatic considerations.

[8]. Likewise, the question of availability of vacancies within the Western Command where the petitioner can be adjusted essentially falls within the domain of administrative authorities. Such like considerations are beyond the scope of justiciability.

[9]. The petitioner would be well advised to submit a representation to the Competent Authority highlighting the mitigating circumstances, if any. Notwithstanding the fact that the Tribunal and this Court has declined to interfere in the order, we are sanguine that the Competent Authority will consider the petitioner's representation sympathetically.

[10]. With liberty aforementioned we decline to interfere in the impugned order.

[11]. Ordered accordingly.

(SURYA KANT)
JUDGE

February 09, 2015
Atik

(RAJ MOHAN SINGH)
JUDGE