

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

CWP No.19925 of 2015 (O&M)

Date of decision: September 18, 2015

Makkhan Lal Agarwal

...Petitioner

Versus

Financial Commissioner and Principal Secretary,
Haryana and Others

...Respondents

Coram: HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

Present: Mr.Keshav Pratap Singh, Advocate for
the petitioner.

HARINDER SINGH SIDHU, J.

By filing this petition, the petitioner has sought quashing of order dated 14.08.2015 (Annexure P-1), whereby, he has been transferred from Municipal Council, Palwal to Municipal Council, Mandi Dabwali.

The petitioner joined on 01.02.1982 as Secretary in Municipal Committee, Nagina. Thereafter, he was granted promotion in due course and vide order dated 19.12.2014 (Annexure P-2) he was posted as Secretary, Municipal Council, Tohana against a vacant post. Again, within thirty days, vide order dated 16.1.2015 (Annexure P-3), he was transferred from Tohana to Jind. Thereafter, the petitioner made a request for

transfer on medical grounds and on mutual basis with one Mukesh Kumar who was posted as Secretary, Municipal Council, Palwal. The request was allowed and the petitioner was transferred to Palwal vide order dated 19.5.2015 (Annexure P-4). After about three months, once again, vide order dated 14.8.2015 (Annexure P-1), the petitioner has been transferred from Palwal to Mandi Dabwali, which he has challenged in the present petition.

Learned counsel for the petitioner has contended that the petitioner has been shifted four times within a span of about eight months without any administrative exigencies, causing great inconvenience to him particularly as he is suffering from heart ailment.

Having heard Learned counsel for the petitioner I do not find that on the aforesaid facts, this Court can interfere with the transfer order.

The scope of interference by the Courts in transfer matters is extremely limited. It has been repeatedly emphasized by the Hon'ble Supreme Court that transfer orders can be interfered with only if it is demonstrated that the same is malafide or if there is violation of any statutory provision. Personal hardship, per se, is no ground to impugn a transfer order. In this regard the observations of the Hon'ble Supreme In **State of U.P. and others Vs. Gobardhan Lal**, 2004 (2) RSJ 604 may be usefully referred to:

“7. It is too late in the day for any Government Servant to contend that once appointed or posted in a particular place or position, Civil Writ Petition No. 15703 of 2014 (O&M) 4 he should continue in such place or position as long as he desires. Transfer of an employee is not only an incident inherent in the terms of appointment but also implicit as an essential condition of service in the absence of any specific indication to the contra, in the law governing or conditions of service. Unless the order of transfer is shown to be an outcome of a mala fide exercise of power or violative of any statutory provision (an Act or Rule) or passed by an authority not competent to do so, an order of transfer cannot lightly be interfered with as a matter of course or routine for any or every type of grievance sought to be made. Even administrative guidelines for regulating transfers or containing transfer policies at best may afford an opportunity to the officer or servant concerned to approach their higher authorities for redress but cannot have the consequence of depriving or denying the competent authority to transfer a particular officer/servant to any place in public interest and as is found necessitated by exigencies of service as long as the official status is not affected adversely and there is no infraction of any career prospects such as seniority, scale of pay and secured emoluments. This Court has often reiterated that the order of transfer made even in transgression of administrative guidelines cannot also be interfered with, as they do not confer any legally enforceable rights, unless, as noticed supra, shown to be vitiated by mala fides or is made in violation of any statutory

provision.”

The petitioner has not alleged any malafide against the respondent authorities. Nor can from the instances of transfer as indicated in the petition, any bias or arbitrariness be inferred. One of the transfers, mentioned above, was on the request of the petitioner himself. Further, it is neither pleaded nor argued on behalf of the petitioner that the impugned transfer order was passed by an authority not competent to pass the order or that any provisions of law were violated, while passing the impugned order

So far as the directions dated 14.8.2015 (Annexure P-6) issued by the State Election Commission, Haryana to respondent No.1 are concerned, the same were issued with respect to transfer orders dated 11.8.2015, vide which 8 Municipal Engineers/Secretaries of the Municipalities, where, the election was in progress. The Election Commission had directed to hold the transfer order, referred to above, in abeyance till the completion of election in all the municipalities. The instructions Annexure P-6 did not refer to the impugned order Annexure P-1.

Thus there is not justifiable ground to interfere with the impugned transfer order. The writ petition is accordingly dismissed.

However it is clarified that the dismissal of the writ petition would not preclude the petitioner from representing to the

authorities to reconsider his transfer on the ground of personal hardship and it would be open to the respondents to take appropriate decision.

September 18, 2015

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**(HARINDER SINGH SIDHU)
JUDGE**