

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

**CWP No. 2094 of 2015
Decided on : 28.09.2015**

Dr. Varinder Pal Kaur

... Petitioner

Versus

State of Punjab and others

... Respondents

(2)

CWP No. 2139 of 2015

Dr. Parminder Punj and others

... Petitioners

Versus

State of Punjab and others

... Respondents

(3)

CWP No. 4086 of 2015

Dr. Jagmeet Singh and others

... Petitioners

Versus

State of Punjab and others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Mr. Vivek Goyal, Advocate
for the petitioner in CWP No.2094 of 2015.

Mr. Pardeep Kumar, Advocate for
Mr. A.S. Cheema, Advocate for the petitioner (s)
in CWP Nos.2139 and 4086 of 2015.

Mr. Rakesh Verma, Sr. DAG, Punjab.

Mr. Ajaypal Singh, Advocate for
Mr. Anil Sharma, Advocate
for respondents No.2 and 3.

G.S. Sandhawalia , J. (Oral)

The present order shall dispose of three writ petitions i.e. CWP Nos. 2094, 2139 and 4086 of 2015. The facts are being taken from 2094 of 2015.

The challenge in the present writ petition is the transfers orders dated 28.10.2014 (Annexure P-7) and 29.01.2015 (Annexure P-8), whereby the petitioner has been transferred from District Hospital Taran Taran to Ghariala which is more than 50 Kms from the place of petitioner and close to the Border area.

The ground of the petitioner is that she was appointed to the post of Homeopathic Medical Officer on contract basis on a fixed salary of ₹ 20,000/- per month and in the appointment letter dated 02.01.2009 (Annexure P-1) a specific clause has been mentioned that your appointment will be non-transferrable. The said appointment was on contract basis under National Rural Health Mission Scheme in Homeopathic Department.

The defence of the State in its written statement is that there were more than one medical officers at District level providing the same services and on the other hand certain dispensaries are lying vacant without medical officers. The conscious decision was taken to spread out the doctors against the vacancies for the benefit of the public and since no useful purpose will be served by putting two or three doctors for providing

the same services. The posts were rationalized within the same District and by virtue of the said the transfer orders have been made, whereby the petitioner was transferred to CHC, Ghariala under the rationalization. It is open to the petitioner to apply either for previous place of posting i.e. CHC Harike Pattan or any vacant Community Health Centre/Sub-Divisional Hospital (CHC/SDH).

The transfer policy dated 08.10.2009 (Annexure R/T1) was also placed on record in **CWP No. 4086 of 2015 titled as 'Dr. Jagmeet Singh and others Vs. State of Punjab and others** to show that the transfers were to be done only in the month of April/May during the period of general transfers and a committee to be constituted and all out of District transfers will be done at the Head Quarter level and minimum transfers were to be done. No challenge has been raised to the said transfer policy. Even otherwise, it is settled principle that transfer is an exigency of service and a very valid reason has been given by the respondents that at certain places in the rural dispensaries more doctors are posted than required where other dispensaries are running short of doctors.

In such circumstances, the transfer orders dated 28.10.2014 (Annexure P-7) and 29.01.2015 (Annexure P-8) are not liable to be interfered.

Reliance can be placed on the observations of the

Apex Court made in '**State of U.P Vs. Gobhardan Lal' 2004 (2) RSJ 604**, wherein it has been held that the transfer orders are only to be interfered where malafides are alleged and where there is a violation of the statutory rules. In the absence of the same this Court under Article 226 of the Constitution of India would not interfere. The relevant observations read as under :-

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, 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.

8. A challenge to an order of transfer should normally be eschewed and should not be countenanced by the Courts or Tribunals as though they are Appellate Authorities over such orders, which could assess the niceties of the administrative needs and requirements of the situation concerned. This is for the reason that Courts or Tribunals cannot substitute their own decisions in the matter of transfer for that of competent authorities of the State and even allegations of mala fides when made must be such as to inspire confidence in the Court or are based on concrete materials and ought not to be entertained on the mere making of it or on consideration borne out of conjectures or surmises and except for strong and convincing reasons, no interference could ordinarily be made with an order of transfer.

It is, however, open to the petitioners to represent the respondents as suggested in the written statement for adjustment as close within the District.

Needless to say that the respondents will consider to such representation sympathetically.

With the abovesaid observations, the present writ petitions are dismissed and all interim orders stand vacated.

SEPTEMBER 28, 2015
Naveen

(G.S. SANDHAWALIA)
JUDGE