

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

CWP No. 24199 of 2014 (O & M)

Date of decision: 12.10.2015

Harbans Singh Dhindsa

....Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

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

Present: Mr. G.P. Vashisht, Advocate,
for the applicant-petitioner.

Mr. Anshul Gupta, AAG, Punjab.

G.S.SANDHAWALIA, J. (Oral)

C.M. No. 13354 of 2015

Application for placing on record replication is allowed, subject
to all just exceptions.

The same is taken on record.

CWP No. 24199 of 2014

Challenge in the present writ petition is to the order dated
05.09.2014 (Annexure P-4) whereby, the petitioner had been suspended on
account of not joining on the post and the order of transfer dated 11.07.2014
(Annexure P-3).

While issuing notice of motion on 27.11.2014, challenge was
restricted only to the transfer order and not to the suspension order on
account of the fact that the petitioner had chosen to defy the order of
transfer. The transfer in question is on the post of Senior Assistant from the
office of Executive Engineer (PRD), Ludhiana to the office of the Executive

Engineer (PRD), Jalandhar. The case of the petitioner in the writ petition was that he is physically disabled and, therefore, it is inconvenient and difficult for him to attend duty at Jalandhar and that his retirement is due on 30.04.2016 and, therefore, it was violative of the government policy.

State in its reply, has clarified that the disability is only due to a depression on the right side of his face and that he has no trouble or inconvenience to walk and neither he has any difficulty in his legs. It has also been clarified that the factum of his retirement on 30.04.2016 is incorrect since due to the benefit being given to handicapped employees, the age of retirement has gone upto 60 years as per instructions dated 19.11.2014. As such the petitioner will now retire on 30.04.2018 and, therefore, the argument that he had only less than one year of service at the time of the transfer order also evaporates. It is settled proposition that transfer is an exigency of service and if there is no mala fide or violation of any statutory rules, it is not to be interfered with by the Courts. Reference can be made to the judgment of the Apex Court in ***State of U.P. vs. Gobardhan Lal, AIR 2004 Supreme Court 2165.***

Accordingly, there is no merit in the challenge to the order of transfer. However, the State will ensure that the necessary action is taken expeditiously on the article of charges which have been issued to him on 03.11.2014 for his absence since the petitioner has also submitted his reply on 25.05.2015.

With the above said observations, the writ petition stands disposed of.

12.10.2015
shivani

(G.S. SANDHAWALIA)
JUDGE