

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.24447 of 2015 (O&M)

Date of Decision:- 29.12.2015.

D.R. Yadav

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

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?

Present: Mr. N.D. Achint, Advocate for the petitioner.

Mr. Harish Rathee, Senior DAG, Haryana.

P.B. BAJANTHRI, J.

CM No.16845-CWP of 2015

This is an application for placing on record rejoinder on behalf of the petitioner.

The application is allowed and rejoinder on behalf of the petitioner is taken on record.

CWP No.24447 of 2015

In this petition, the petitioner has questioned validity of the transfer and posting order dated 17.11.2015 by which he has been posted from the post of Joint Excise and Taxation Commissioner

(Range), Gurgaon to the post of Joint Excise and Taxation Commissioner (HIPA), Gurgaon on the ground that he is due for retirement on 30.06.2016. In support of the petition, he relies on the policy decision of the State Government vide Annexure P-3. Para 2 of the said policy reads as follows:-

“2.) Government have re-examined the matter and after careful consideration have decided that in future this relaxation in tenure beyond five years shall be admissible to only such employees as are due to retire within one year (repeat one year). In other words this maximum period of five years shall not apply to Government employees both gazette and non gazette, who are due to retire within the next one year and they may be allowed to continue on their present posts till retirement.”

Learned State counsel has submitted that on 19.11.2015, one Sh. Dilbagh Singh was transferred and posted as the Joint Excise and Taxation Commissioner (Range), Gurgaon. The writ petition was filed on 18.11.2015. The petitioner could have appropriately amended the petition questioning the order dated 19.11.2015 by which Mr. Dilbagh Singh was posted. Even to this date, the petitioner has not amended the petition questioning the order dated 19.11.2015, which is undisputed fact.

Normally the Court do not interfere with the transfer and posting of employees/officers, since it is an administrative decision. It is policy decision of the Government. The Courts would interfere

with transfer matters where there is a violation of Statutory rules or competency or malafide. The petitioner contends that there is a violation of policy. The policy would have been applied to the petitioner had he been transferred from one place to another place. In the present case, the petitioner has been posted within the same place, namely, Gurgaon i.e., from one office to another or from one building to another at Gurgaon. No hardship has caused to the petitioner. The object behind the policy is that an employee or officer who is due for retirement within one year should be accommodated in the same place of posting so as to avoid undue hardship to him for the purpose of settlement of retiral dues etc. Such a situation is not forthcoming in the present case.

Accordingly, the writ petition is dismissed.

(P.B. BAJANTHRI)
JUDGE

December 29, 2015.

sandeep sethi