

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

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Civil Writ Petition No.9183 of 2015

Date of Decision:11.05.2015

Surinder Singh

....petitioner

Versus

State of Punjab and others

.....respondents

CORAM: HON'BLE MR.JUSTICE ARUN PALLI

Present: Mr.Sukhjit Singh, Advocate
for the petitioner

ARUN PALLI, J.(ORAL):-

A writ in the nature of certiorari is prayed for, so as to quash the order dated 04.05.2015 (Annexure P13), vide which the petitioner has been transferred from Government Senior Secondary School Nada (SAS Nagar), Tehsil Kharar, District Mohali, to Government High School Bassewal (Roopnagar).

In brief, the case set out by the petitioner is that he was appointed as Senior Lab Attendant (SLA) on 20.11.1993. FIR No.128 dated 17.08.1999, under Sections 419/420/465/467/468/471, read with Section 120-B IPC, was registered against the petitioner. As the petitioner remained in custody from 27.09.1999 to 07.11.1999, he was suspended w.e.f.27.09.1999, vide Annexure P1. However, vide order rendered by Judicial Magistrate 1st Class, SAS Nagar, Mohali, dated 13.11.2007 (Annexure P2), the petitioner was acquitted of the charge. The petitioner was reinstated in service.

Subsequently, he was transferred to Government Senior Secondary School Nada (SAS Nagar), pursuant to an order dated 21.10.2009 (Annexure P3). The suspension period of the petitioner i.e.20.08.1999 to 19.12.2007 was treated as duty period by respondent No.2 and direction was issued to respondent No.3 to release the requisite arrears. Accordingly, Principal of Government Senior Secondary School Nada (SAS Nagar), was directed to forward the claim of the petitioner to Government Treasury for release of his arrears. But despite that being so, nothing tangible emerged. Conduct of respondent No.4 is purported to be bad not only against the petitioner, but also towards other staff and students of the school. Thus, the petitioner moved representations to the Education Minister on 27.01.2015 (Annexure P11) and 09.04.2015 (Annexure P12), as regards the harassment being caused to the petitioner, at the instance of respondent No.4. He prayed for a strict legal action against respondent No.4. Likewise, vide representation dated 09.04.2015 (Annexure P12), petitioner reiterated his grievance. He accused the Principal for harassing him badly and not co-operating with him. Further, she always raised allegations against the petitioner on one pretext or the other. As indicated above, vide order being assailed i.e dated 04.05.2015 (Annexure P13), the petitioner has been ordered to be transferred from Government Senior Secondary School Nada (SAS Nagar), Tehsil Kharar, District Mohali, to Government High School Bassewal (Roopnagar) by respondent No.2 on administrative grounds.

I have heard learned counsel for the petitioner and

perused the paper book.

On a due and thoughtful consideration of the matter in issue, I am of the considered view that the instant petition is devoid of merit and is, thus, liable to be dismissed for the reasons that are being recorded hereinafter.

Respondent No.4 i.e.Lakhwinder Kaur, is engaged as Principal Government Senior Secondary School Nada (SAS Nagar). The petitioner before his transfer was also posted at the same place as Senior Lab Attendant. Apparently, there appears to be complete acrimony and disagreement between the two which is certainly not conducive and congenial to the desired school environment. Needless to assert, transfer is an incidence of service and is primarily within the domain of the administrative authorities unless demonstrated to have been actuated for mala fide reasons or is in breach of rules or operative instructions. Ex facie, Director Education Department (Secondary Education), Punjab, ordered transfer of the petitioner on administrative basis. No mala fides are alleged against respondent No.2. Even otherwise, petitioner has been ordered to be transferred from Government Senior Secondary School Nada (SAS Nagar), Tehsil Kharar, District Mohali, to Government High School Bassewal (Roopnagar), which is hardly a distance. Still further, petitioner was transferred to Government Senior Secondary School Nada (SAS Nagar), pursuant to an order dated 21.10.2009 (Annexure P3) and has, thus, served at that place for more than six years. An analysis of the position as set out above irresistibly show that competent authorities transferred the petitioner purely in

administrative interest. The cause of the petitioner as regards the arrears for his suspension period may be well founded for which he was/is always at liberty to resort to appropriate measures. But certainly his grievance qua his transfer is misconceived.

In the wake of the position, as sketched out above, no interference in exercise of extraordinary jurisdiction under Article 226 of the Constitution of India, is warranted. The petition being devoid of merit is accordingly dismissed.

11.05.2015

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(ARUN PALLI)
JUDGE