

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-42047 of 2016

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Date of decision:28.11.2016

Rajinder Kumar

...Petitioner

v.

Union of India and others

...Respondents

.....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Karan Singla, Advocate for the petitioner.

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Inderjit Singh, J.

This criminal miscellaneous petition has been filed by the petitioner under Section 482 Cr.P.C. for quashing of the impugned order dated 4.2.2012 (Annexure-P2), whereby sanction to prosecute respondent No.4 has been declined.

I have heard learned counsel for the petitioner and have gone through the record.

From the record, I find that the impugned order (Annexure-P2) has been passed in this case by stating that due to the increase of work in RDSO, Lucknow, there was need of more staff. Thus, a decision was taken by Board Member (Mech.) under letter No.AM(ME)/Cadre/Misc. Dated 27.5.2009 that support be provided by Zonal Railways/Production Units by providing post and a person who would be posted against the post

transferred for temporary operation to RDSO. In view of this, it was decided that S.K. Bharti, CMS-II may be transferred to RDSO, Lucknow. However, he showed his family problems. His case was not processed. As regards the present petitioner, he was transferred. The complainant alleged that he was transferred being the whistle blower under RTI activist which was considered in the sanction order and found baseless and not acceptable. In the sanction order, it has also been written that, as is seen, the transfer was made in public and administrative interest at the instance of Railway Board without any mala fide. In these facts, the sanction was declined.

A perusal of the order shows that transferring a person to some other place of posting itself allowed as per Rules as has been mentioned specifically in the sanction order does not amount to commission of offence which requires sanction. The purpose of sanction is to protect the acts or omission by the public servant while discharging official duties. The impugned order Annexure-P.2 is a speaking and reasoned order.

At the time of arguments, learned counsel for the petitioner also argued that the order has not been passed by the competent authority. When a query was put to him, as to who was the competent authority, then he could not give any reply. He was asked to show from the petition as to who is the competent authority, but he stated that he had not taken this plea in the grounds of petition.

Keeping in view the above fact, I find that no illegality has been committed while declining the grant of sanction to prosecute respondent No.4.

Therefore, from the above, finding no merit in this petition, the same is dismissed.

November 28, 2016.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No