

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

Date of decision: 02.05.2016

CWP No.12049 of 2014 (O&M)

Jaspal Kaur

...Petitioner

Vs.

State of Punjab & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. H.C.Arora, Advocate, for the petitioner.

Mr. Vaibhav Sharma, DAG, Punjab.

Mr. Goldy Jakhar, Advocate, for
Mr. H.S.Brar, Advocate, for respondent No.4.

1. *To be referred to the Reporters or not?*
2. *Whether the judgment should be reported in the Digest?*

RAJIV NARAIN RAINA, J. (ORAL)

Challenge in this petition is to a posting order dated 28.05.2014 (Annex P-4) transferring the petitioner from Samrala to Head Office, Chandigarh in the Punjab Food, Civil Supplies and Consumer Affairs Department, Punjab. The petitioner has alleged that the transfer was due to the clout exercised by a local politician inimical to her, who has been arrayed as 4th respondent by name. He is stated to be an ex-Member of Legislative Assembly, Punjab.

This petition was filed directly against the impugned transfer order without raising a dispute with the Government in the first instance through a representation. However, this Court protected the petitioner and passed an interim order of stay on 17.06.2014. Armed with the stay order, she has continued to serve at Samrala station from then onwards. However, her threat

perception remains at the hands of the 4th respondent. During the pendency of this petition, she made a request in writing to the competent authority representing State Government praying that she may be transferred to a place other than Samrala or Chandigarh. The petitioner is a widow who fends for herself. That request has not been considered mostly for the reason that the matter is *sub judice* before this Court and the hands of Government are tied.

In the circumstances, this Court deems it appropriate that the Government should take a decision on her request and consider holistically her transfer to a place other than Samrala or Chandigarh and wherever vacancy exists in the Punjab Food, Civil Supplies and Consumer Affairs Department, Punjab, where she serves as an Inspector.

No third party rights are involved in this petition as none have been arrayed as respondents to claim relief except the 4th respondent, who is perceived by the petitioner to be the *causa causans* of her transfer. It would be of no use to keep this petition pending to receive the reply of the 4th respondent on the request made today for adjournment since this Court has expressed no opinion on the conduct of the 4th respondent in the transfer matter. The State would be at liberty to pass a fresh order of transfer and posting of the petitioner to a suitable place after hearing her if it is found necessary. However, till such time as the fresh order is not passed, the posting of the petitioner at Samrala will not be disturbed.

As a result, while quashing the impugned order dated 28.05.2014 (Annex P-4) to make way for the fresh order to be passed in accordance with law and in terms of the transfer policy of the State, this petition is allowed to the extent indicated above.

02.05.2016
Vimal

[RAJIV NARAIN RAINA]
JUDGE