

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.12298 of 2015 (O&M)
Date of Decision: 10.05.2016

HC(P) Jeet Singh and others

... Petitioners

Versus

The State of Punjab and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. K.G. Chaudhry, Advocate,
for the petitioners.

Mr. Vaibhav Sharma, DAG, Punjab.

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

RAJIV NARAIN RAINA, J.

1. This petition has been filed by a group of petitioners against their order of repatriation to the parent department. They were sent on deputation by way of temporary posting in Vigilance Bureau Punjab. At the first hearing, when notice of motion was issued operation of the impugned order dated April 20, 2015 was ordered to remain inoperative qua the petitioners.

2. The written statement filed by the State in the police department in June 2015 was a contested one. It is argued that the Vigilance Bureau is not a separate department and those police officials who are posted in the Bureau continue to retain their seniority in the parent office and can be sent back at any time.

3. The Vigilance Bureau Punjab feeling aggrieved by the interim order of stay have preferred CM No.10341 of 2015 for expediting hearing

of the matter by bringing the date forward for disposal of the main case on merits arguing through their learned counsel Mr. Vaibhav Sharma, learned DAG Punjab that the stay is working against the interest of their work as a specialised agency to cleanse the administration of rot that has set in. Pleadings have been exchanged on the application. The matter was shown in urgent list for final disposal. That is how this matter has come up for hearing today.

4. The State has explained in the written statement as well as in the application that continuance of stay is not justified. In the present case, the petitioners who are Head Constables in Punjab Police were deputed to serve in Vigilance Bureau Punjab in the exigencies of administration long years ago. They have approached this Court against their repatriation to the parent department on administrative grounds. The Chief Director, Vigilance Bureau Punjab, Chandigarh has been requested to relieve the petitioners by directing them to report to their parent department. The order covers a group of twenty four Constables and Head Constables of which seven Head Constables have approached this Court challenging the order dated April 20, 2015. The prayer in the petition, apart from quashing of the impugned order, is for direction to the respondents to absorb the petitioners in the Vigilance Bureau Punjab permanently and accordingly they be allowed to continue serve in the Bureau.

5. They have made this prayer by drawing analogy from the position obtaining in the Criminal Investigation Department (Intelligence) where absorption orders have been passed. The State has explained in the written statement which position has been articulated by Mr. Vaibhav

Sharma that no similar circumstances exist between Criminal Investigation Department (Intelligence) and the Vigilance Bureau Punjab because the Criminal Investigation Department (Intelligence) is a regular and permanent cadre structured as a full-fledged department as per section 18 of the Punjab Police Act, 2007 ("2007 Act") whereas in Vigilance Bureau there is no permanent cadre because all the officers/officials are taken on deputation from the various other departments including from the Police Department. It has been explained in the return that a Committee was especially constituted of three Inspector Generals of Police deputed to the Vigilance Bureau to examine each case of retention individually and to recommend the repatriation of the petitioners after giving them full opportunity of personal hearing before passing an order. It is disclaimed that any permission was given to them by Vigilance Bureau which has no role to play in the matter of promotions of deputationists. The present scenario is such and the prevailing circumstances of investigation demand in the Vigilance Bureau appointment of fresh and more qualified personnel to meet the challenges required by standards of probity in the on-going inquiries/investigations entrusted or taken up in Vigilance Bureau. This process of repatriation is a continuous process which goes on from time to time as has been even in the past.

6. The State in its reply mentions that 12 DSPs, 14 Inspectors, 11 Sub Inspectors, 9 ASIs, 33 Head Constables and 114 Constables have been repatriated in the last three years. The number totals 193 officers/officials. It is underscored that 24 of the repatriated officials had served in Vigilance Bureau for an average tenure of 14 years ranging between minimum 11

years and maximum 23 years of service. The new dispensation brings with it higher qualified officials to meet the current requirements of a high order in investigations as hammered by Mr. Sharma.

7. Counsel explains that the process is to inject fresh blood into the Vigilance Bureau Punjab to spur inquiries and investigations in a more scientific manner. This can be achieved only by cleansing the department and bringing in more tech savvy officials to shoulder the growing duties and responsibilities of the Vigilance Bureau, Punjab. The duration of the stay of the officials in the Vigilance Bureau has no effect on their seniority and promotions which they continue to get by the next below rule when person junior is promoted in parent department.

8. On the other hand Mr. Chaudhry for the petitioners submits that the Vigilance Bureau and Criminal Investigation Department (Intelligence) are a part and parcel of Punjab Police. Both were filled by way of deputation from other departments of Government. He disputes the origin of Criminal Investigation Department (Intelligence) as per section 18 of the 2007 Act and says that it was created for the first time as an independent cadre on its own on December 14, 2009 by a notification issued in this behalf (Annex P-5).

9. However, Mr. Chaudhry has failed to draw conclusively any identical attributes in the Bureau and the Department. He is unable to refute that Criminal Investigation Department is not an independent separate department. The reply to the application is weak and has no legs to stand on. He has opposed change of date by bringing the main case forward as requested by the State. He obviously has in mind the interim stay order and

its preservation.

10. The status of the petitioners is no more than of employees on deputation and they cannot be heard to insist as a matter of right that they should be continued in the Vigilance Bureau and their services absorbed therein. If the Vigilance Bureau is not a department of Government with a regular cadre then no person has a right to insist that they be encadred and even if it was, even then they could not insist on absorption. This is a matter of State policy and it is the business of the State to run the Vigilance Bureau as best it thinks in public interest. Highly sensitive matters are inquired into and investigated by the Vigilance Bureau Punjab which is the custodian of the morals in administration keeping a check on the conduct of officials serving under the State. If the Vigilance Bureau is not willing to retain the petitioners any further then the decision is not to be interjected by the writ Court. There is no apparent violation of Articles 14 & 16 of the Constitution of India in the present case. A deputation can be curtailed for sufficient reasons. The business of the Court will extend no further than calling upon the respondent-State to explain the motive behind the order when it is silent on its face as to the reasons for repatriation except to record that repatriation to parent department is on administrative grounds. Those administrative grounds have been shown to the Court in the accompanying written statement in tune with the changing times and I have no good and sufficient reason to tinker with the impugned order of repatriation and would dismiss the petition.

(RAJIV NARAIN RAINA)
JUDGE

10.05.2016
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