

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

Civil Writ Petition No.13265 of 2016

Date of decision: 12th July, 2016

Rajeev Kumar

...Petitioner

versus

Central Administrative Tribunal and others

...Respondents

***CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE RAMENDRA JAIN***

Present: Mr. Dinesh Mahajan, Advocate
for the petitioner.

Ajay Kumar Mittal,J.

1. The petitioner prays for quashing the order dated 28.06.2016 (Annexure P-1) passed by respondent No.1 – Central Administrative Tribunal vide which prayer for the interim stay of the orders under challenge (Annexures P-2 & P-3 dated 21.3.2016 and 30.5.2016 respectively) was not granted and only notice was issued to respondents No.2 to 4.

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. The petitioner joined service of the respondent-department as Junior Engineer on 01.04.1993 and was posted at Srinagar Air Force Station (J&K). On 21.03.2016, Annexure P.2, the petitioner was transferred from GE Samba to CE Leh Zone (Annexure P-2). Aggrieved

thereby, he filed an application before Central Administrative Tribunal which was disposed of vide order dated 05.05.2016 (Annexure P-16) with a direction to the respondent-authority to decide the representations dated 21.04.2016 and 26.03.2016 submitted by the petitioner by passing a speaking order and also stayed the transfer order dated 21.03.2016 (Annexure P-2) qua the petitioner. The petitioner cited 2001 policy framed by the Government, Annexure P.5 and cases of other similarly situated persons who had been granted extension of tenure on the medical grounds. However, vide order dated 30.5.2016, Annexure P-3, the respondent-authority rejected the claim of the petitioner by passing the impugned order. Hence, the present writ petition.

3. We have heard learned counsel for the petitioner.

4. Admittedly, the petitioner joined the respondent department as Junior Engineer on 1.4.1993 and was posted at Srinagar. He was transferred from one place to another from time to time as per administrative exigencies. On 21.3.2016, the petitioner was transferred from GE Saba to CE Leh Zone. The application filed against the transfer order before the Tribunal was disposed of vide order dated 5.5.2016 with a direction to the respondent authority to decide the representations submitted by the petitioner. On 30.5.2016, the respondent authority rejected the claim of the petitioner inter alia on the ground that the policy relied upon by the petitioner was not applicable to him and in the policy applicable to his case, there was no provision for exemption. Learned

counsel for the petitioner has not been able to produce any material to show that the impugned order is illegal or arbitrary. Moreover, transfer is a normal feature and incident of government service and unless the same is malafide, the same is not liable to be interfered with, even if the same is contrary to administrative guidelines. The administrative guidelines may be a ground for an employee to represent to higher authorities but is not a ground for interference by this Court. Reference may be made to the judgment of the Apex Court in ***State of UP and others vs. Gobardhan Lal***, AIR 2004 SC 2165 wherein the following observations were made:-

“It is too late in the day for any Government Servant to contend that once appointed or posted in a particular place or position, he should continue in such place or position as long as he desires. Transfer of an employee is not only an incident inherent in the terms of appointment but also implicit as an essential condition of service in the absence of any specific indication to the contra, in the law governing or conditions of service. Unless the order of transfer is shown to be an outcome of a mala fide exercise of power or violative of any statutory provision (an Act or Rule) or passed by an authority not competent to do so, an order of transfer cannot lightly be interfered with as a matter of course or routine for any or every type of grievance sought to be made. Even administrative guidelines for regulating transfers or containing transfer policies at best may afford an opportunity to the officer or servant concerned to approach their higher authorities for redress but cannot have the consequence of depriving or denying the competent authority to

transfer a particular officer/servant to any place in public interest and as is found necessitated by exigencies of service as long as the official status is not affected adversely and there is no infraction of any career prospects such as seniority, scale of pay and secured emoluments. This Court has often reiterated that the order of transfer made even in transgression of administrative guidelines cannot also be interfered with, as they do not confer any legally enforceable rights, unless, as noticed supra, shown to be vitiated by mala fides or is made in violation of any statutory provision.”

5. In view of the above, we do not find any ground to interfere with the impugned order. Consequently, finding no merit in the petition, the same is hereby dismissed.

(Ajay Kumar Mittal)
Judge

(Ramendra Jain)
Judge

July 12, 2016
'gs'

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes