

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CIVIL WRIT PETITION NO. 15007 OF 2016

DATE OF DECISION: AUGUST 01, 2016

Sukhpal, Belt No.356, Jail WarderPetitioner

Versus

State of Haryana and othersRespondents

AND

CIVIL WRIT PETITION NO. 15009 OF 2016

Kuldeep Singh, Belt No.489, Jail WarderPetitioner

Versus

State of Haryana and othersRespondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA

Present: Mr.Arvind Singh, Advocate for the petitioner.

Mr.Hitesh Pandit, Additional Advocate General,
Haryana.

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TEJINDER SINGH DHINDSA, J.

This order shall dispose of **Civil Writ Petition No.15007 of 2016** (Sukhpal v. State of Haryana and others) and **Civil Writ Petition No.15009 of 2016** (Kuldeep Singh v. State of Haryana and others) as common issue arises in both these petitions

2. The petitioners in these two connected petitions raise a challenge to the order dated 6.7.2016 qua themselves whereby while serving as Jail Warders they have been transferred from Central Jail, Ambala to Central Jail, Sonapat.

3. It has been argued on behalf of the petitioners that they had joined at Central Jail, Ambala in December 2014 and have been displaced only after completion of 19 months' stay. Action is alleged to be illegal. Even plea of discrimination has been raised stating that other Warders who had been appointed along with the petitioners in the year 2003 have been permitted to continue serving at Ambala itself during the entire tenure of service and have not been transferred. Names of seven such Jail Warders have been furnished in para 5 of the writ petition. It is further submitted that petitioner Sukhpal (in Civil Writ Petition No.15007 of 2016) had earlier approached this Court by filing Civil Writ Petition No.13428 of 2016. Likewise, petitioner Kuldeep Singh (in Civil Writ Petition No.15009 of 2016) had earlier approached this Court by filing Civil Writ Petition No.13417 of 2016. Both writ petitions were disposed of vide order dated 12.7.2016 calling upon the respondent-Authorities to treat the petitions as representations and take a final view on the same.

4. The Director General, Prisons, Haryana-respondent No.2 has passed an order dated 25.7.2016, Annexure P5, whereby the claim of the petitioners seeking re-consideration of their transfer has also been rejected. Even such order dated 25.7.2016 at Annexure P5 has been assailed in the instant petition.

5. Having heard learned counsel for the petitioners at length, this Court is of the considered view that no basis for interference is made out.

6. Transfer is an incidence of service. An order of transfer would be open to interference only if it is demonstrated, that the

transfer has been directed by an authority who did not have the jurisdiction to do so; or the same is in violation of some statutory provision or having been passed with a malafide intent.

7. Perusal of the impugned order dated 25.7.2016 at Annexure P5 passed by respondent No.2 rejecting the claim of the petitioners seeking re-consideration as regards their transfer would show that the petitioners were appointed as Jail Warder and had joined on 19.9.2003. In their total 13 years of service, they have remained posted at Central Jail, Ambala for nearly 12 years. Para 273 of the Punjab Jail Manual as applicable to State of Haryana reads as under:

"273. Conditions as to the Jail to which posted:

No warder shall be posted to a jail in his home district nor a jail in a district in which he has been long resident. No warder shall ordinarily be allowed to remain at a Central jail or at a first or a second class District Jail for more than five years, nor at a third or fourth class District Jail for more than three years, nor at a subsidiary jail for more than one and a half years."

8. Clearly, the transfer of the petitioners from Central Jail, Ambala to Central Jail, Sonapat is justifiable on the strength of para 273 of the Punjab Jail Manual.

9. That apart, in the order dated 25.7.2016 passed by respondent No.2 in the case of Kuldeep Singh, petitioner in Civil Writ Petition No.15009 of 2016, it has been observed that there have been complaints against the petitioner as regards indulging in activities of supplying drugs and mobiles to the inmates and he

being a resident of nearby village Thol, District Kurukshetra which is 20 kms. from Central Jail, Ambala.

10. Under such circumstances, the competent authority has taken a decision to transfer the petitioners from Ambala to Sonapat. The same would not call for any intervention.

11. As regards the instances furnished by the petitioners in para 5 of the petition of other Warders having been retained at Central Jail, Ambala over a considerable length of time, this Court had directed learned State counsel on 28.7.2016 to complete instructions and the matter had been posted for today i.e. 1.8.2016.

12. During the course of hearing today, Mr.Hitesh Pandit, Additional Advocate General, Haryana, on instructions from Mr.JS Gill, A.D.A., office of Director General, Prisons, Haryana, has made a statement that the matter with regard to transfer of other Jail Warders from Central Jail, Ambala and who have been serving there since their initial date of appointment is under active consideration and necessary orders would be issued within a period of four weeks.

13. In the totality of circumstances, no basis for interference in the transfer orders of the petitioners is made out.

14. Both the petitions are dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

AUGUST 01, 2016
SRM

Note: *Whether speaking/reasoned?* *Yes/No*

Whether referred to Reporter? *Yes/No*