

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP NO. 18699 OF 2016
DECIDED ON : 08.09.2016

Sham Singh

...Petitioner

versus

State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present : Mr. K. P. S. Virk, Advocate,
for the petitioner.

RAJIV NARAIN RAINA, J.

Challenge in this petition is to a transfer order. The petitioner has approached this Court under Article 226 of the Constitution of India directly without seeking in the first instance remedy before the authorities. The petitioner is a Kanungo four months short of superannuation on 31.01.2016. He has been transferred from Safidon to Uchana vice Avtar Singh Kanungo along with the Halqa Patwari in a matter relating to mutation no. 449 dated 26.08.2016 of the revenue estate of village Dadawara, Tehsil Safidon, District Jind which was entered by Suresh Kumar, Halqa Patwari who by the same impugned order stands transferred to Alipura (non-petitioner). It is pleaded in paragraph 6 of the petition that

the party in whose favour the mutation was entered are well connected and under their pressure the impugned transfer order dated has been issued on 30.08.2016.

If he imagines that he is being transferred to a station 70 kms away by way of punishment he seems sadly mistaken. His story against his transfer is woven on his refusal to mutate certain lands belonging to the Harijan Cooperative Society village Didvada, Safodon under a temporary injunction issued by the Civil Judge (Senior Division), Safidon on 29.05.2015 in civil suit 113 of 20.05.2016 in case titled Jai Nara etc. v. Pala Ram etc. ordering status quo, then he had no other option but to lawfully enter the mutation entry in further action of the work of Suresh Kumar and no person superior to him in office or some third person wanting to appropriate land allotted to the Society, would expect grant of mutation so long as the orders of status-quo passed by the Civil Court continue in operation. The petitioner depends in his challenge to the impugned order while relying on the transfer policy guidelines which protect employees from transfer with one year left for retirement. The order is in breach of the guidelines.

I think this is not a sufficient ground to interfere in the matter when the transfer is not at any great distance and no specific allegations of malafide or bias have been alleged against any officer in causing the transfer and posting which appears to have been passed in public interest by the Collector, Jind. The bias alleged by the petitioner against the transferring authority in the petition does not prima facie constitute malafides or bias and that too without disclosing the name of the person who is acting on

behalf of private respondents to engineer the petitioner's transfer. I, therefore, find nothing in this petition to warrant interference on the writ side of this Court in a matter of posting and transfer. The transfer policy lays down guidelines to which departure is not inflexible and so long as the transfer is not actuated by vice of abuse of authority or power. There is also hardly any sufficient ground to intercede and put the respondents to notice for the reason that the petitioner was not heard or the order is not a speaking one and discloses no reason in writing for the transfer. Transfer is an incidence of service.

Dismissed.

However, the dismissal of the petition will not preclude the petitioner to apply to the Collector Jind for a review of the order or to prefer a statutory appeal, if available, against it.

(RAJIV NARAIN RAINA)
JUDGE

SEPTEMBER 08, 2016
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<i>Whether speaking/reasoned ?</i>	<i>Yes</i>
<i>Whether reportable ?</i>	<i>No</i>