

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

CWP No.205 of 2016

Date of Decision:8.01.2016

Ravi Sharma

... Petitioner

Versus

State of Punjab & ors.

... Respondents

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

Present: Mr. HS Batth, Advocate,
for the petitioner.

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

RAJIV NARAIN RAINA, J.(Oral)

This is a matter involving a posting and transfer of the petitioner. The petitioner is an Ophthalmic Officer at PHC Sur Singh, District Tarn Taran. He says that he has suffered a flurry of transfer orders in the recent past. He was transferred from CHC Ferozeshah, District Ferozepur to work in CHC Sur Singh, District Tarn Taran vide order dated 15.12.2015. He says he was shocked to learn that his previous transfer was suddenly cancelled by Respondent -2 vide impugned order dated 31.12.2015 by which Respondent-3 was transferred against his post at CHC Sur Singh, District Tarn Taran and the petitioner was resultantly deputed on temporary duty at CHC Ajnala, District Amritsar. The petitioner has set out the history of his transfers and all the litigations that he has had to resort to, to protect his rights which papers have been placed on the record of this case. However, before approaching this Court, the petitioner has not availed his remedy before the primary superior competent authority to hear grievances of employees in the

matter of posting and transfer from one station to another. This step, before approaching this Court has been commended by the Supreme Court in **Shilpi Bose (Mrs.) v. State of Bihar**; AIR 1991 SC 532 to be resorted to in the first instance.

In view of the law in *Shilpi Bose*, the petitioner is relegated in the first instance to his administrative remedy before the transferring authority or any superior authority, i.e., respondent No.2 to hear the grudge of the petitioner in a sympathetic manner and then to pass an order of redressal, if required. In case the petitioner makes out a case at a hearing for retention in Tarn Taran, then it would not be necessary for the decision-maker to pass an order on the merits of his claim for rescinding the order. However, in case an adverse order is contemplated in the sense that the posting order will remain operative, then the necessity would arise of passing a speaking order duly communicated to the petitioner after affording him an effective opportunity of hearing. Since the petitioner has not made a representation to the Government, learned counsel for the petitioner submits that this petition may be allowed to be treated as a representation/appeal for consideration of the competent authority in the Government. The request is accepted in order to save time. A copy of this petition will be supplied by the petitioner in the office of the second respondent immediately and the decision thereon be taken within 7 days thereafter.

In the meanwhile, as an interim measure the petitioner will be retained at Tarn Taran to await hearing and passing of final orders as may be passed by the officer concerned to whom this matter stands

relegated.

With the above directions, the petition stands disposed of.

8.1.2016
monika

(RAJIV NARAIN RAINA)
JUDGE