

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.20518 of 2016

Date of decision: 30.9.2016

Satish Kumar

... Petitioner

Versus

State of Haryana & ors.

... Respondents

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

Present: Mr. Anil Kumar Sharma, Advocate, for
Mr. Lalit Rishi, Advocate,
for the petitioner.

RAJIV NARAIN RAINA, J.(Oral)

In a case of transfer short of retirement, the Division Bench of this Court in Letters Patent Appeal No.1629 of 2016 (Darshna Kumari v. State of Haryana & anr.), disposed of on August 30, 2016 passed the following orders:-

“Notice of motion.

On our asking, Ms. Palika Monga, DAG, Haryana, who is present in Court accepts notice on behalf of all the respondents. Two complete sets of paper-book have been handed over to her.

Heard learned counsel for the parties at a considerable length.

The appellant is working as an Assistant Secretary in the Transport Department, Haryana. In August 2015 only she was transferred from Panchkula to Karnal and hardly after one year, she has now been ordered to be transferred from Karnal to Jind. The only mitigating circumstance pointed out by her to challenge the transfer order is that she is going to retire on 31.07.2017 on attaining the age of superannuation.

Learned Single Judge has declined to interfere with the transfer order and rightly so observing that transfer is an incidence of service and the transfer

policy does not vest the appellant with any enforceable right.

In our considered view the fact that the appellant is to retire within a period of less than one year is a circumstance which can be sympathetically considered by the Competent Authority so as to allow her to retire from the present place of posting as it would facilitate the determination of her retirement benefits. Nevertheless, such a decision has to be taken by the authorities only and this Court will be extremely reluctant to interfere with the transfer orders, save in a case of exceptional nature.

We, thus, dispose of this appeal by modifying the order passed by learned Single Judge with a direction to the Principal Secretary, Transport Department, Haryana, to take up the appellant's matter for her retention at Karnal till she attains the age of superannuation with the Competent Authority. Let such a request be considered sympathetically and appropriate decision be taken at the earliest and preferably within one month. Till such time the appellant may be allowed to continue at Karnal. A copy of this order be given to learned counsel for the parties under the signatures of the Court Secretary for information and necessary compliance.”

The present petition is disposed of in terms of the decision in Darshna Kumari's case with facts to be read *mutatis mutandis*.

(RAJIV NARAIN RAINA)
JUDGE

30.9.2016
monika

Whether speaking/reasoned
Whether Reportable:

Yes / No
Yes / No