

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

CWP No. 22784 of 2016

DATE OF DECISION : 03.11.2016

Vikram Singh Kundra

.... PETITIONER

Versus

Central Administrative Tribunal, Chandigarh Bench, Chandigarh and others

..... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL

HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. D.S. Patwalia, Senior Advocate, with  
Mr. Sehajbir Singh, Advocate,  
for the petitioner.

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**RAMENDRA JAIN , J.**

1. The petitioner was appointed to the Indian Forest Service on 18.08.2011. After undergoing two years period of training, he joined as Deputy Divisional Forest Officer in the cadre of the State of Punjab and joined as such at Hoshiarpur. On 18.02.2016, he was promoted as Divisional Forest Officer and was posted as Divisional Forest Officer (Wildlife), Phillaur, which is a non-cadre post. On submitting representation by the petitioner against his posting on a non-cadre post, vide order dated 31.05.2016, he was transferred as Divisional Forest Officer (Territorial) Jalandhar at Phillaur. Thereafter, in compliance to letter dated 07.09.2016 issued by the Election Commission of India, vide order dated 20.10.2016 (Annexure P-3), the petitioner was transferred as Divisional Manager, Punjab State Forest Development Corporation Ltd., Amritsar. The aforesaid

transfer order dated 20.10.2016 (Annexure P-3) was challenged by the petitioner by filing OA No. 060/00975/2016 (Annexure P-1) before the Central Administrative Tribunal, Chandigarh Bench, Chandigarh, which has been dismissed vide order dated 27.10.2016 (Annexure P-4).

2. Aggrieved by the aforesaid order dated 27.10.2016 (Annexure P-4) passed by the Tribunal, the petitioner has filed this writ petition under Articles 226/227 of the Constitution of India, for issuance of a writ in the nature of certiorari to quash the impugned order dated 27.10.2016 (Annexure P-4) and the transfer order dated 20.10.2016 (Annexure P-3).

3. Learned counsel for the petitioner argued that the transfer order dated 20.10.2016 is stated to have been issued in compliance of the letter dated 07.09.2016 of the Election Commission of India, regarding transfer/posting of Officers in the State of Punjab, keeping in view the General Elections to the State Legislative Assembly of the State. The said letter covers only those employees who are directly connected with the elections, but the petitioner, who is working on the post of Divisional Forest Officer (Territorial) in the Forest Department is not connected with the upcoming elections in the State of Punjab, in any manner. Even in the order dated 20.08.2016, copy of which was annexed as Annexure A-8 with the OA, appointing Nodal Officer and Assistant Nodal Officers, name of the petitioner does not find mention. Vide notification dated 28.01.2014 (Annexure P-2), Indian Forest Service (Cadre) Rules, 1966 (hereinafter referred to as '1966 Cadre Rules'), were amended. Rule 7 (3) of the amended Rules provides that a cadre officer shall hold office for at least two years and sub rule (5) of Rule 7 provides that if a cadre officer has to be transferred before the minimum specified period, then it has to be done so,

only on the recommendations of the Civil Services Board. In the present case, the petitioner did not complete two years on the cadre post of Divisional Forest Officer (Territorial) and he has been transferred from the said post without seeking any recommendation from the Civil Services Board. Thus, he has been transferred in violation of Rule 7 (3) and (5) of the amended 1966 Cadre Rules. In an earlier O.A. No. 060/01163/2015, titled as 'Rambir Singh versus Union of India and others', vide order dated 15.02.2016 (Annexure P-5), while setting aside the transfer orders of the applicant therein, the Tribunal had opined that any transfer made contrary to 1966 Cadre Rules can not be sustained and the Courts are well within their rights to interfere and set aside such a transfer. Further, on 18.02.2016, while promoting the petitioner as Divisional Forest Officer, he was posted on a non-cadre post. However, on making representation by the petitioner, on 31.05.2016 he was transferred as Divisional Forest Officer (Territorial) Jalandhar at Phillaur. Thereafter, after a period of about 5 months, vide order dated 20.10.2016, he was again posted on a non-cadre post, in violation of statutory rules.

4. We have thoughtfully considered the submissions made by learned counsel for the petitioner and do not find any substance in the same.

5. A careful perusal of the letter dated 07.09.2016 (Annexure A-6 annexed with OA) issued by the Election Commission of India reveals that it was decided that no officer connected directly with elections in the State shall be allowed to continue in the present district of posting, if he/she is posted in his/her home district. Though the petitioner, while posted as Divisional Forest Officer (Territorial) Jalandhar at Phillaur, was not directly connected with elections in the State, but it is an admitted fact that in the

service record of the petitioner, District Jalandhar has been recorded as his Home District. Therefore, in compliance with the said letter dated 07.09.2016, the petitioner has been transferred out of his Home District, for holding free and fair elections to the Legislative Assembly in the State, which cannot be said to be illegal in any manner. In the peculiar facts and circumstances of the case, Rule 7 (3) and (5) of the amended 1966 Cadre Rules are of no help to the petitioner. The facts of **Rambir Singh's case (supra)** were entirely different from the facts of the instant case. In that case, transfer was not made on account of elections in the State. Therefore, the petitioner cannot derive any benefit of the order passed in the said case. So far as the contention with regard to transfer of the petitioner on ex-cadre post is concerned, a perusal of the impugned order passed by the Tribunal makes it clear that this ground was not pressed by learned counsel for the petitioner.

6. For the reasons recorded above, we do not find any illegality or perversity in the impugned order passed by the Tribunal, upholding the transfer order dated 20.10.2016.

7. Dismissed.

**( RAMENDRA JAIN )**  
**JUDGE**

November 03, 2016  
ndj

**( AJAY KUMAR MITTAL )**  
**JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes