

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

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**CWP-11178-2014 (O&M)
Date of decision: 19.01.2017**

Rajpal Singh

....Petitioner

Versus

State of Haryana and others

.... Respondents

CORAM: Hon'ble Mr. Justice P.B. Bajanthri

Present: Mr. Daman Dhir, Advocate for the petitioner.

Mr. Harish Rathee , Sr. DAG, Haryana.

Mr. Ram Niwas Sharma, Advocate for respondent no.12.

P.B. Bajanthri, J. (Oral)

In the instant writ petition, the petitioner has questioned the order dated 21.02.2014 by which his seniority in the cadre of Deputy Superintendent has been given effect in the Department of Women and Child Development from the date of joining i.e. 26.10.2012 instead of counting the past service rendered in the Social Welfare Department. To that extent the respondents have passed a speaking order on 21.02.2014 which is under challenge.

2. Petitioner and private respondents were initially appointed in the Social Welfare Departement. The respondents in the public interest transferred some of the staff of the Social Welfare Department to that of

Women and Child Development on 25.08.2009. The petitioner feeling aggrieved by the order of transfer dated 25.08.2009 preferred a writ petition before this court and this court stayed the transfer of the petitioner from Social Welfare Department to Women and Child Development on 18.11.2009. Ultimately, the petitioner's CWP No. 17653 of 2009 was dismissed on 14.08.2012. Consequently, the petitioner was required to obey the order of transfer notification dated 25.08.2009 transferring him from Social Welfare Department to Women and Child Development. In this background, the petitioner's service has not been taken into consideration rendered by him in the Social Welfare Department in the Women and Child Development Department and the same has been denied vide order dated 21.02.2014 which is under challenge.

3. Learned counsel for the petitioner submitted that merely because he has questioned the validity of the transfer notification dated 25.08.2009 before this court and obtained an interim order at the time of admission of the case and further dismissal of the petitioner's writ petition does not lose his service benefits rendered in the Social Welfare Department. It was further submitted that order of transfer from Social Welfare Department to Women and Child Development is in public interest i.e. in the interest of the parental department. Therefore, the petitioner is entitled to count service rendered in the Social Welfare Department. Hence the impugned order dated 21.02.2014 is highly arbitrary and illegal and liable to be set aside.

4. On the other hand, learned counsel for the respondents submitted

that the petitioner loses his seniority and also service benefits which have been rendered in the Social Welfare Department in view of the fact that the petitioner failed to report for duty at the transferred place and department with reference to transfer notification dated 25.08.2009. The private respondents submitted that 4th respondent is senior to the petitioner in the Social Welfare Department. Therefore, the petitioner cannot be placed over and above the 4th respondent.

5. Heard learned counsel for the parties.

6. Crux of the matter is whether the petitioner is entitled to count his service rendered in the Social Welfare Department in the Women and Child Development or not. Admittedly, the transfer order/notification dated 25.08.2009 from Social Welfare Department to Women and Child Development is in the public interest as is evident from the notification which stipulates that seniority would be protected. Merely because the petitioner had approached this court in questioning the transfer notification and obtaining interim order and thereafter his writ petition was dismissed, consequently, he has reported on 26.10.2012 that does not mean that he is going to lose the service benefits or service rendered in the Social Welfare Department. When the transfer notification itself is in the public interest then the persons who have been transferred from Social Welfare Department to Women and Child Development are entitled to count their services for the purpose of service benefits in the Women and Child Development. Therefore, the impugned order dated 21.02.2014 by which the petitioner's claim for counting the service rendered in the Social Welfare

Department has been rejected is illegal and arbitrary. Accordingly, Annexure P12 dated 21.02.2014 is set aside. The respondents are directed to count the petitioner's service rendered with the Social Welfare department for the purpose of extending service benefits in the Women and Child Development with reference to seniority maintained in the Social Welfare Department and extend all service benefits from the date of petitioner's junior in the Social Welfare Departement, who had been granted. Such exercise shall be completed by the respondents within a period of one month and pass a speaking order and communicate the same to the petitioner.

19.01.2017

pooja saini

**(P.B.BAJANTHRI)
JUDGE**

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No