

IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH

CWP No.14505 of 2014(O&M)  
Date of Decision: 12.07.2017

Tajinder Pal Kaur

--Petitioner

Versus

State of Punjab and others

--Respondents

**CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.**

Present:- Mr. Kapil Kakkar, Advocate for the petitioner.

Mr. Avinish Avasthi, A.A.G., Punjab.

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**TEJINDER SINGH DHINDSA.J**

The petitioner, who was serving as Multipurpose Health Worker (Female) under the Directorate of Health Services and Family Welfare, State of Punjab, instituted the instant petition in the year 2014 assailing the order dated 15.7.2014 (Annexure P-2) to the extent of her transfer from P.H.C., Manawal, District Amritsar to Civil Hospital, Mansa.

Learned counsel appearing for the petitioner has raised a two fold submission. It is argued that the petitioner has been transferred out of district Amritsar only to accommodate one Smt. Balwinder Kaur, respondent no.4 and who had upon promotion joined at Civil Hospital, Mansa just 3/4 months prior in point of time. The second submission raised by the counsel is that daughter of the petitioner is suffering from epilepsy and is getting treatment from Uppal Neuro Hospital, Amritsar. In support of such assertion document at Annexure P-3 has been referred to. Counsel would also place reliance upon the guidelines/transfer policy dated 30.7.2013 (Annexure P-4) which as per him were in vogue at the relevant point of time. Clause 2 (e) of the transfer policy is referred to and which

reads in the following terms:-

*“(e) The cases of government employees/officers whose any child is mentally retarded should be considered sympathetically at the time of their transfers and postings and efforts should be made to give them the postings of their choice.”*

Counsel even adverts to sub clause (g) of clause 2, which stipulates that no govt. employee should be transferred unless he has completed minimum period of 3 years. It is argued that the impugned transfer of the petitioner cannot sustain as it is in violation of the transfer policy which held the field at the relevant point of time.

Counsel for the parties have been heard and the pleadings on record have been perused.

In the considered view of this Court, the instant petition is wholly misconceived.

In the written statement filed by the Director, Health Services (Family Welfare), Punjab on behalf of respondents no.1 to 3, a stand has been taken that the petitioner has served in Amritsar district for a period of more than 30 years prior to passing of the impugned order. That apart, in pursuance to the transfer order dated 15.7.2014 she was relieved from her place of posting on 21.7.2014 itself. Petitioner has chosen not to file any replication to the written statement. Even during the course of arguments counsel for the petitioner would candidly concede as regards the petitioner having served in Amritsar district over a period of 30 years. Strangely, such factual position which, otherwise, would have been relevant to the issue, has not been depicted in the averments made in the writ petition.

It is by now well settled that terms and conditions contained in a transfer policy/guidelines do not vest any enforceable right in an employee. Transfer is an incidence of service. Matters of postings/transfers are best left to the judgement of the employer. A reference in this regard may be made to the decision of the Hon'ble Supreme Court in ***Union of India & others Vs. S.L. Abbas, 1995(4) S.C.T., 455.***

In the present case, this Court find that even the assertion as regards there being a deviation from the transfer policy is without merit. The document at Annexure P-3 placed on record would at best show that daughter of the petitioner is epileptic. Clause 2 sub clause (e) of the transfer policy affords a special treatment to an employee whose child is mentally retarded. For the petitioner to suggest that an epileptic would be mentally retarded, is preposterous.

As regards clause 2 (g) stipulating that under normal circumstances a govt. employee is not to be transferred unless he/she has completed a minimum period of 3 years the same also does not come to the rescue of the petitioner.

During the course of arguments, it stands conceded that even at the place of posting at P.H.C. Manawal the petitioner had completed more than 3 years since she had joined at such place of posting on 21.7.2014 and the impugned order of transfer had been passed on 15.7.2014.

It would also be apposite to take note that while issuing notice of motion on 25.7.2014 interim order to the following effect had been passed:-

*“In the meantime, if the petitioner has not been relieved from her present place of posting, she will be allowed to continue at the same place, till the next date of hearing.”*

As per written statement, the petitioner already stood relieved from the P.H.C., Manawal on 21.7.2014 itself. Such fact has not even been disclosed in the writ petition. Be that as it may, under the garb of such interim order petitioner is stated to be still serving at P.H.C., Manawal. Conduct of the petitioner, in view of the facts and circumstances noticed herein above, cannot be appreciated.

For the reasons recorded above, there would be no scope for interference in the impugned transfer order of the petitioner from P.H.C., Manawal, district Amritsar to Civil Hospital, Mansa.

Petition, accordingly, is dismissed.

Suffice it to observe that since there has been sufficient efflux of time even after passing of the impugned order it would be open for the respondent authorities to direct transfer of the petitioner keeping in view the administrative exigencies and public interest.

**(TEJINDER SINGH DHINDSA)**  
**JUDGE**

**12.07.2017**  
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| Whether speaking/reasoned: | Yes |
| Whether Reportable:        | Yes |