

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.15852 of 2014

Date of Decision:-11.01.2017.

Satbir Singh and another

.....Petitioners

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. S.N. Yadav, Advocate for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana.

Mr. Rohit Joshi, Advocate for

Mr. Anil Kumar, Advocate for respondent No.5.

P.B. BAJANTHRI, J. (Oral)

1.) In the instant writ petition, the petitioners have questioned the validity of the order dated 10.6.2014 (Annexure P-2). The petitioners are stated to have been appointed on 8.5.2014 to the post of Mali in the respondent-Police Department. They have been transferred from Rewari to Palwal and Rewari to Mewat, respectively.

2.) Learned counsel for the petitioner submitted that petitioners are in the cadre of Mali and they are Class-IV employees and they cannot be transferred or shifted out of District and it was further submitted that no reasons have been assigned in the order of transfer.

3.) On the other hand, learned counsel for the State vehemently contended that the order of transfer has been issued on the administrative grounds and the persons who are working in the Police Department have to serve throughout the State. Therefore, there is no restriction in respect of transfer of Class-IV employees from one district to another. It was further contended that the petitioners' work were not satisfactory in the respective places as they were spreading disaffection amongst fellow officials etc., therefore, there is no infirmity in the transfer order.

4.) Heard learned counsel for the parties.

5.) Perusal of the reply statement, it is evident that the transfer of the petitioners was ordered on the allegations. Superiors to the petitioners have made allegations that petitioners' work was not satisfactory and allegations have been made that petitioners are spreading disaffection amongst fellow officials. Therefore, it is evident that order of transfer is not on the administrative ground on which they have been transferred. If at all there are allegations against the petitioners, the respondents/disciplinary authority has ample power to initiate disciplinary proceeding. On complaint if an employee is transferred it attaches stigma therefore, the impugned transfer order is liable to set aside. Supreme Court in the case of **Somesh Tiwari Vs. Union of India 2009 (2) SCC 592** upheld decision of the High Court that if the transfer order is on complaint, then necessary action should be taken on the disciplinary side. In view of these facts and circumstances, Annexure P-2 dated 8.5.2014 transferring the petitioners from Rewari to Palwal and Rewari to Mewat is set aside. The respondents are directed to give postings to the petitioners within Rewari District within a period of

three months from today.

6.) Petition stands allowed.

(P.B. BAJANTHRI)
JUDGE

January 11, 2017.
sandeep sethi

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.