

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

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CWP No.16052 of 2017 (O&M)

Date of Decision: August 23, 2017

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....Petitioner

vs.

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present: Mr. Harkaran Singh, Advocate for
Mr. B.S. Bhalla, Advocate
for the petitioner.

Mr. Avinit Avasthi, AAG, Punjab.

TEJINDER SINGH DHINDSA, J. (Oral)

Learned State counsel has filed in Court today a reply by way of affidavit of Inspector General of Police, Bathinda Zone, Bathinda on behalf of respondent No.5 and the same is taken on record. A complete copy has been furnished to counsel representing the petitioner.

With the consent of counsel representing the parties, writ petition is taken up for disposal today itself.

Petitioner, who is serving on the post of constable, has filed the instant petition impugning the order dated 14.07.2017 (Annexure P-5) to the extent of his transfer from Ferozepur to Mansa.

The primary ground of challenge raised in the petition is that the petitioner has been a victim of frequent transfers inasmuch as

having suffered four transfers in a span of one month's time. To substantiate such assertion, counsel has adverted to the orders at Annexures P-2, P-3 & P-4 and in terms of which, the petitioner was transferred from Ferozepur to Jalandhar range and later on, Jalandhar to Faridkot and then, from Faridkot to Ferozepur and finally, vide impugned order, from Ferozepur to Mansa District. In the reply, that has been filed by Inspector General of Police, Bathinda on behalf of respondent No.5, such factual premise stands admitted.

On the last date of hearing i.e. 03.08.2017, directions have been issued to elaborate as to whether any transfer policy/guidelines, issued by the State Government are applicable on the respondent-Police Department and as to whether, any policy has been kept in mind while issuing the impugned order of transfer.

The response that has been filed in Court today, is completely silent on such aspect.

The justification sought to be furnished in the response is that transfer of a police official from one place to another, is not a punishment and would not entail any adverse consequences with regard to his seniority. A stand has also been taken in the written statement that since the petitioner belongs to the District Police Cadre, he can be transferred in any district as the seniority of the District Police Cadre is maintained at Central Police Office.

Having heard counsel for the parties at length, this Court is of the considered view that the impugned transfer of the petitioner in the light of order dated 14.07.2017 (Annexure P-5) from Ferozepur

to Mansa, cannot sustain.

There can be no quarrel with the proposition that transfer is an incidence of service. Be that as it may, transfer of an employee has to be justified on the touchstone of administrative exigency of service. Transfers cannot be directed on the whims and fancies of the authority concerned.

Petitioner in the present case has suffered as many as four transfers within a period of four weeks. Apart from taking a stand in the reply that the respondent-department would be competent to direct transfer, no administrative exigency had been disclosed so as to justify the passing of the impugned order.

For the reasons recorded above, the writ petition is allowed. Transfer of the petitioner from Ferozepur to Mansa vide order dated 14.07.2017 (Annexure P-5) is set aside.

Petition is allowed.

(TEJINDER SINGH DHINDSA)
JUDGE

23.08.2017
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***Whether speaking/reasoned* : Yes/No**
***Whether reportable* : Yes/No**