

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

Civil Writ Petition No.20397 of 2016

Date of decision: 09.11.2017

Rishi Pal

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA

Present: Mr. S.K.Liberhan, Advocate for the petitioner.

Mr. Harish Rathee, Senior Deputy Advocate General,
Haryana for respondents 1 to 4.

Mr. Satbir Gill, Advocate for respondent no.5.

G.S.SANDHAWALIA, J. (Oral)

The petitioner seeks quashing of transfer order dated 22.9.2016 (Annexure P/3) whereby he has been transferred from ITI Jind to ITI Rajound (Kaithal).

The ground of the petitioner at that stage when he approached this Court was that he has been transferred to Jind from Tohana only on 22.5.2015 (Annexure P/1) vice respondent no.5. The said respondent had thereafter had been posted from Tohana to Rajound (Kaithal) on 30.10.2015 (Annexure P/2). By virtue of the impugned order he was now coming back to Jind at the cost of the petitioner. Resultantly, it is submitted that he had stayed at Jind for the majority of his tenure and the petitioner should not be disturbed within 1-1/2 years. It was pleaded that the petitioner has not completed the maximum three years' stay at one station as per the policy of the State Government apart from the fact that his wife was expecting at that point of time besides other family exigencies. This Court had directed to

maintain the status quo as regards place of posting of the petitioner on 29.9.2016 and the petitioner is continuing at Jind since then.

The State in its defence had taken the plea that it has a right to transfer and the employee has no vested right to be posted at a particular place and resultantly challenge has been raised to the maintainability as such of the writ petition.

Respondent no.5 on the other hand has taken the plea that the petitioner is a diploma holder in Mechanical Engineering and he is better qualified and as per instructions he is entitled to remain at Jind as two instructors are required out of which one must have degree/diploma holder.

It is settled principle that the Courts would not interfere in transfer orders as per the law laid down in **State of UP and others Vs. Gobardhan Lal (2004) 11 SCC 402**, until the same is arbitrary. Nevertheless the fact also cannot be lost sight that the petitioner was being displaced at the initial stage at the instance of respondent no.5 who was coming back to Jind. The petitioner had not even completed two years at his place of posting i.e. Jind on 22.9.2016 and therefore, in such circumstances the impugned transfer order which was passed was not justified as the State Government itself has issued instructions dated 6.10.2004 wherein it is stipulated that an employee normally should not be disturbed till a period of two years until there is extreme administrative exigency. The same does not find mention in the impugned order wherein only public interest has been mentioned which could not be justified by the State.

In such circumstances, impugned transfer order dated 22.9.2016 (Annexure P/3) was violative of the policy itself issued by the

State Government and the action of the State can be held to be arbitrary. Therefore, the same is not liable to sustain and accordingly, the said transfer order dated 22.9.2016 (Annexure P/3) is quashed.

Needless to say that the petitioner has now stayed at Jind for over two years and five months and therefore, it is always open to the State to proceed ahead in its administrative exigencies as and when it is so required.

The present writ petition is accordingly allowed.

November 09, 2017
Pka

(G.S.SANDHAWALIA)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No