

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

CWP No. 17057 of 2017 (O & M)

Date of decision: 18.08.2017

Raj Kumar

....Petitioner(s)

Versus

State of Haryana and others

...Respondent(s)

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

Present: Mr. M.S. Chahal, Advocate,
for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

C.M. No. 11226-CWP of 2017

Application has been filed for placing on record replication
alongwith Annexures P-9 and P-10 and for exemption from filing certified
copies of the same.

Notice in the application.

Mr. Harish Rathee, Sr. DAG, Haryana accepts notice.

Application is allowed, subject to all just exceptions.

Replication alongwith Annexures P-9 and P-10 are taken on
record.

CWP No. 17057 of 2017

The petitioner challenges his transfer order dated
21.04.2017/06.07.2017 (Annexure P-4) whereby, he has been transferred
from GSSS, Bhiwani Road, Rohtak to GSSS Dobh, Rohtak. Thereafter, he
has been transferred on 25.07.2017 (Annexure P-5) to GSSS Bahu,
Abkarpur, Rohtak and thereafter he has been transferred in the same village
to the Girls School.

The case of the petitioner is that on account of his handicap and the fact that he is blind and performing duties of a Principal and due to retire on 31.01.2018, the transfer order should be quashed and he should be allowed to stay on at GSSS, Bhiwani Road, Rohtak. Counsel for the petitioner has referred to the policy dated 23.12.2008 (Annexure P-2) to submit that the blind employees may not be posted in rural areas without their consent.

The State, in its response, has submitted that a complaint as such had been received against him on 21.10.2015 and as per the report dated 14.12.2015, it was enquired into by the District Education Officer, Rohtak as he had failed to prepare the time table for Science and Maths and, therefore, the education standard in the said subjects was substandard. In spite of a direction issued earlier on 01.09.2015 on inspection by the said officer and by the Block Education Officer, he had failed to do so. As per the inquiry report dated 09.03.2016 on account of the slackness and fact that a leadership vacuum had been created in the school at the Bhiwani Road, he had also been charge sheeted vide order dated 05.06.2017 (Annexure R-1). He had been adjusted in the GSSS, Bahu, Abkarpur, Rohtak and, therefore, the transfer was justified. Allegations were also made that there was embezzlement and misappropriation of Rs.5,85,134/- of the Government grant which proves the indisciplined working of the Principal.

Petitioner, in his replication, denied the said facts and averred that the inquiry mentioned wrong facts and was not sustainable in the eyes of law and was still pending consideration and, thus, there is no justification of the transfer of the petitioner. The allegations of loss and misappropriation were also rebutted on the ground that other employees had

also been assessed to loss on having creating irregularities but they have not been transferred and, therefore, he is entitled for the benefit of the transfer policy.

After hearing counsel for the parties, this Court is of the opinion that it is settled principle that transfer orders are not liable to be interfered with by this Court until they are found to be arbitrary or mala fide. Reliance can be placed upon the judgment of the Apex Court in ***State of U.P. and others vs. Gobardhan Lal, 2004 (11) SCC 402***. Sympathy may lie with the petitioner on account of his handicap but the fact remains that it is not denied by counsel for the petitioner that his transfer is to the school which is situated only 14 kilometers from Rohtak. The factum of a preliminary inquiry having been conducted and the petitioner having been charge sheeted is a matter of record. In case of administrative exigencies if the petitioner is not upto the mark, it is always open for the competent authorities to get another person who is better equipped to deal with the situation and put him in saddle. The petitioner can claim no right as such to continue at a particular place of posting since policies do not have any statutory force and are only recommendatory. The argument raised that at the fag end of retirement, the petitioner is not liable to be transferred is also covered by the same principle that policies are not statutory in nature.

Accordingly, this Court is loath to interfere in the transfer order and the present writ petition is dismissed.

18.08.2017
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No

