

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

117

CWP No.17083 of 2017 (O&M)

Date of Decision: August 02, 2017

Dr. Saroj Kumari

....Petitioner

vs.

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present: Mr. Munish Bhardwaj, Advocate
for the petitioner.

TEJINDER SINGH DHINDSA, J. (Oral)

Petitioner is serving as Ayurveda Medical Officer (Female) having been engaged on contractual basis in the year 2014 under National Health Mission, Punjab, being operated under the aegis of the Department of Health and Family Welfare, State of Punjab.

Challenge in the instant petition is to the order bearing endorsement date as 10.07.2017 (Annexure P-3) to the extent of her transfer from Civil Hospital Tanda, District Hoshiarpur to R.B.S.K. Block, Bham, Gurdaspur.

Learned counsel representing the petitioner, would argue that the impugned order has not been passed on account of any administrative exigency of service but rather for the oblique purpose for accommodating private respondent No.6. In the same breath, it is contended that it is not an order of transfer rather it is an

order of adjustment. Reliance has been placed upon model terms and conditions of contractual employment at Annexure P-2 and under which, Clause 11.0 is the provision for transfer of contractual employees under the National Rural Health Mission and which stipulates that transfers of employees, anywhere within the State or to and fro State Headquarters can be made on administrative grounds in the interest of the Department by the Mission Director.

Violation of Clause 11.0 is alleged. It has also been argued that transfer of the petitioner has been directed on account of the influence wielded by the local MLA. Counsel has also submitted that the impugned transfer would entail a lot of practical difficulties in terms of dislodging the petitioner from her matrimonial home and particularly in view of the fact that she has a 2 ½ years old child.

Having heard counsel for the petitioner at length, this Court is of the considered view that no interference in the matter is called for.

Transfer is an incidence of service. Orders of transfer are open to challenge if transfer has been directed in violation of some statutory provisions or the order of transfer has been issued by an authority, not competent to do so or if the transfer is vitiated by malafides.

Even the terms and conditions contained in a transfer policy/guidelines do not vest an enforceable right in favour of an employee. A reference in this regard may be made to the decision of

the Hon'ble Apex Court in the case of ***Union of India Versus S.L. Abbas, 1995(4) SCT 455.***

Averments have been made in Para 6 of the writ petition that the impugned order has been passed on account of political reasons and under the influence of the local MLA so as to adjust private respondent No.6 at Tanda, District Hoshiarpur. These averments have not been substantiated by any material placed on record. The averments are utterly vague in nature. Even the concerned MLA and at whose alleged behest, the impugned transfer is said to have been made, has not been impleaded as a party-respondent. Under such circumstances, this Court cannot infer any malafides as regards passing of the impugned order.

During the course of hearing and on a specific query having been put, it has been conceded that the petitioner had served at Civil Hospital, Tanda, District Hoshiarpur, since her initial date of engagement on contractual basis i.e. in the year 2014. No exception as such, can be taken to an order of transfer that has been passed after the petitioner having enjoyed a tenure at a particular place of posting for a period in excess of three years.

There is no merit in the petition and the same is accordingly dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

02.08.2017
anju rani

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