

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

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CWP No.18035 of 2017 (O&M)

Date of Decision: August 16, 2017

Gurinder Singh Sohi

....Petitioner

vs.

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present: Mr. Abhivadya Sood, Advocate for
Mr. Rakesh Gupta, Advocate
for the petitioner.

TEJINDER SINGH DHINDSA, J. (Oral)

Challenge in the instant petition is to the order dated 10.07.2017 (Annexure P-1), passed by the Director, Health and Family Welfare, State of Punjab, to the extent of directing transfer of the petitioner, who is serving as a Pharmacist, from Bahadurgarh(Patiala) to Civil Hospital, Dera Baba Nanak (Gurdaspur).

Counsel would submit that even though, there is no specific policy in such regard, but, there is a convention in the Department of Health and Family Welfare for an employee to submit a request for transfer at a particular place of posting and it is upon forwarding such request that orders of transfer are issued. It is contended that in the present case, petitioner had not forwarded any request and in spite thereof, the impugned order of transfer at Annexure P-1, has been passed. Further submitted that in Patiala

itself, there are 14 other posts of Pharmacist that are lying vacant and as such, instead of dislocating the petitioner to a distant far away place like Dera Baba Nanak, Gurdaspur, he could have well been adjusted in Patiala itself. Even the document placed on record at Annexure P-4, has been adverted to contend that the petitioner is suffering from Glaucoma, which is certified to be a complicated chronic disease and the petitioner is presently undergoing treatment at Patiala and the impugned transfer would hinder the medical treatment. Even a plea of discrimination has been raised by contending that a number of other employees have spent and enjoyed a tenure in excess of ten years at Patiala and have not been transferred, but the petitioner, in isolation, has been picked up and transferred to Gurdaspur. Yet, another ground to assail the transfer that has been pressed by counsel is that a suit for permanent injunction was instituted by wife of the petitioner- Parwinder Kaur along with another co-plaintiff against Shri Durga Mandir Committee, with regard to a certain construction. Such suit was instituted in the last week of May 2017 and the members of the Shri Durga Mandir Committee, are influential persons and who enjoyed close proximity to the present Health Minister, State of Punjab and it is at his behest that the transfer has been directed.

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

Taking the assertion made by counsel that no request for

transfer has been made by the petitioner to be correct at its face value, still the same cannot prevent the department from directing transfer of an employee on account of the administrative exigency of service. Even if, a number of posts of Pharmacist, are lying vacant in Patiala, would not vest any right in the petitioner to be adjusted at Patiala itself. Matters relating to transfers/postings would be best left to the judgment of the employer.

Transfer is an incidence of service. No employee has a right to seek transfer at any particular place. The plea of discrimination to sustain would pre-suppose a right. Counsel at a pointed query, concedes that he has served at Bahadurgarh(Patiala) for a period of seven long years. Under such circumstances, no exception can be taken to his transfer from Bahadurgarh(Patiala) to Gurdaspur.

The assertion as regards the impugned transfer being vitiated by malafides, has gone completely unsubstantiated. The members of Shri Durga Mandir Committee, who are alleged to be influential, have not even been named in the petition. Even the political personality and at whose behest, the impugned transfer is stated to have been directed, has not been impleaded as a party respondent.

Under such circumstances, this Court cannot infer any malafide intent in the impugned order that has been passed.

For the reasons recorded above, this Court is not inclined to interfere with the impugned order of transfer of the petitioner.

Petition is dismissed.

Suffice it to observe that dismissal of the present petition, would not preclude the petitioner from approaching the appropriate/competent authority to seek adjustment in the light of his medical ailment.

(TEJINDER SINGH DHINDSA)
JUDGE

16.08.2017
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Whether speaking/reasoned : **Yes/No**
Whether reportable : **Yes/No**