

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

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CWP No.19346 of 2017 (O&M)

Date of Decision: September 05, 2017

Manjit Singh

....Petitioner

vs.

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present: Mr. R.S. Athwal, Advocate
for the petitioner.

TEJINDER SINGH DHINDSA, J. (Oral)

CM No.12463 of 2017

Application is allowed, as prayed for.

The relevant translated extract transcript of the pen drive as also the pen drive itself, is taken on record at Annexure P-11.

Application disposed of.

Main Case

Pleadings on record would show that vide order dated 15.07.2017 (Annexure P-5), petitioner, who is serving as a Block Primary Education Officer, under the Punjab State Education Department, was transferred from Tanda-I, District Hoshiarpur to Garshankar-I, District Hoshiarpur.

Petitioner at that stage, filed **CWP No.15859 of 2017,**

impugning the order dated 15.07.2017. However, such writ petition was dismissed as withdrawn on 28.07.2017, as per statement of counsel for the petitioner that after filing of the writ petition, the Additional Secretary (Secondary Education) Punjab, had intervened and the order of transfers of the effected employees, including the petitioner, had been stayed. Accordingly, prayer was made for withdrawal of the petition and with liberty to approach the Court afresh in the eventuality of any order being passed, which may be construed as detrimental to the interest of the petitioner.

The instant writ petition is now directed against the order dated 24.08.2017 (Annexure P-10) and in terms of which, the basic order of transfer dated 15.07.2017 at Annexure P-5, is sought to be implemented.

Counsel would argue that the wife of the petitioner is also a government employee and under the transfer policy, there is a specific provision to accommodate a couple at one place of posting. As such, it is contended that the transfer of the petitioner from Tanda-I, District Hoshiarpur to Garshankar-I, District Hoshiarpur, even though in the same district, yet, is violative of the terms and conditions contained in the transfer policy. Further contended that the post, from where petitioner has been transferred, is still lying vacant and as such, the intervention that had earlier been made by the Additional Secretary (Secondary

Education) State of Punjab, should still hold good and the impugned order of implementation of original transfer order dated 15.07.2017 (Annexure P-7), should not be given effect to. Mr. R.S. Athwal, Advocate, has also made an attempt to urge that the transfer of the petitioner is vitiated by malafides. In this regard, it is submitted that the transfer has been directed at the instance of respondent No.5 who is MLA from Urmur Tanda. To press such submission, counsel has even adverted to the relevant translated extract of a pen drive and which allegedly records a conversation between the sister of the petitioner namely Sukhdev Kaur, Sarpanch, Talwandi, Solan and the MLA in question.

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

Transfer is an incidence of service. Matters of transfer/posting are best left to the judgment of the employer. Orders of transfer would be open to challenge only if the same have been passed in violation of statutory provision or are vitiated by malafides. Terms and conditions contained in a transfer policy/guidelines do not vest an enforceable right in an employee. A reference in this regard may be made to the decision of Hon'ble Apex Court in the case of ***Union of India Versus S.L. Abbas, 1995(4) SCT 455.***

The assertion as regards malafides is utterly vague.

Even if the alleged conversation recorded in the relevant translated extract placed on record at Annexure P-11, is taken to be genuine., still, the contents thereof would not be sufficient for this Court to record a finding that the impugned order is vitiated by malafides. Such view is further fortified in the light of the counsel admitting that the petitioner had served at Tanda-I, District Hoshiarpur over a period as long as nine years before being transferred to Garshankar-I, District Hoshiarpur.

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

(TEJINDER SINGH DHINDSA)
JUDGE

05.09.2017
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Whether speaking/reasoned : ***Yes/No***
Whether reportable ***:*** ***Yes/No***