

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

CWP No.19468 of 2017(O&M)
DATE OF DECISION:07.09.2017

Hazara Singh

...Petitioner

Vs.

Punjab State Power Corporation Limited, Patiala and others

...Respondents

CORAM:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

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

DAYA CHAUDHARY, J.(ORAL)

The prayer in the present petition is for issuance of a writ in the nature of certiorari for quashing of impugned order dated 04.08.2017 (Annexure P-1) and also order dated 23.08.2017(Annexure P-6) whereby respondent No.5 has been ordered to be transferred from 66 KV Grid Sub Station Nangja to 66KV Grid Sub Station, Kalanaur on account of personal interest. In pursuance of that order the petitioner has been ordered to be transferred at his place and both the aforesaid orders are liable to be set aside on account of mala fide reasons.

Briefly the facts of the case as made out in the present petition are that petitioner joined respondent-department on 07.04.1989 and he is going to retire on attaining the age of superannuation on 28.02.2021. His work has been found satisfactory. The transfer of the petitioner has been made in pursuance of transfer order of respondent No.5 by mentioning the personal interest/public interest.

Learned counsel for the petitioner submits that petitioner cannot be transferred against respondent No.5 who is a contractual employee and has been appointed in the year 2016. Learned counsel also submits that petitioner has been transferred during mid session when all general transfers are already over. His transfer has been done during paddy season when there is a ban on general transfers just to give benefit to respondent No.5. The transfer order of the petitioner is contrary to the terms and conditions of the policy as applicable to the case of the petitioner. At the end learned counsel for the petitioner submits that there was no complaint or proceedings against the petitioner and still he has been transferred. Learned counsel has relied upon judgments of **D.S. Sangwan Vs. State of Haryana & others 2015(1) S. C. T. 579**, **Dr. Dev Parkash Chugh Vs. State of Punjab and others 2005(4) S. C. T. 726**, **Roshan Vs. State of Haryana and others 2013(21) S.C.T. 172**, **Union of India Vs. S. L. Abbas 1995(4) S. C. T. 455** and **Dr. T. P. Senkumar IPS Vs. Union of India & Ors. 2017(2) S.C.T 768**, in spite of his arguments.

Heard arguments of learned counsel for the petitioner and have perused the impugned transfer and other documents on the file.

Facts relating to posting of the petitioner at the present place are not disputed. Respondent No.5 was transferred on the ground of personal interest whereas petitioner has been transferred on the ground of public interest.

As per the arguments raised by learned counsel for the petitioner, the petitioner has been transferred against respondent No.5 who is a contractual employee and was appointed only in the year 2016. On

perusal of impugned order, it shows that petitioner Hazara Singh has been transferred from 66 KV Grid Sub Station, Buche Nangal under P&M Division, Gurdaspur to 66 KV Grid Sub Station, Nangja, under P&M Division, Kapurthala. The petitioner has been transferred against respondent No.5 namely Bikramjit Singh. The transfer order has been challenged only on the ground that the petitioner cannot be transferred against contractual employee whereas the petitioner has been transferred against sanctioned post. The transfer is an incident of service. It has been held in various judgments that in normal course the Court should not interfere with the transfer orders which are made in public interest and on administrative grounds unless the transfer is in violation of any mandatory statutory rule or with mala fide intention. An employee is having no choice to remain posted at one place or the other. This view has been taken by Hon'ble the Apex Court in case rendered in **Mrs. Shilpi Bose and others Vs. State of Bihar and others, AIR 1991 S.C. 532.**

The Division Bench judgment of this Court in case **Jit Singh Mallan Vs. Punjab State Electricity Board and another 2007(2) RSJ 527** has held that petitioner has no inherent right to choose the place of his posting. The instructions issued for transfer are merely the guidelines and said guidelines cannot be said to be mandatory and do not create any legal right in favour of the petitioner. Some view was taken by Hon'ble the Apex Court in case **Rajendra Singh Vs. State of U.P. & others, 2010(1) SLR 632** and **State of U.P. and others Vs. Gobardhan Lal 2004(2) RSJ 604.**

Nothing has been shown by learned counsel that the petitioner has been transferred with mala fide intention or for any other ulterior

motive and as such transfer order cannot be said to be punitive in nature.

In view of facts as mentioned above there is no merit in the contention raised by learned counsel for the petitioner and the present petition being devoid of any merit is hereby dismissed.

07.09.2017

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(DAYA CHAUDHARY)

JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No