

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.25336 of 2016 (O&M)  
Date of Decision:-20.02.2017.

Rajpal

.....Petitioner

Versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI**

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Present: Mr. R.N. Sharma, Advocate for the petitioner.

Mr. Karan Sharma, AAG, Haryana.

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**P.B. BAJANTHRI, J. (Oral)**

- 1.) In the instant writ petition, the petitioner has questioned the validity of transfer order dated 2.12.2016 (Annexure P-2) by which he has been posted as Assistant Superintendent in the office of Sub-Divisional Officer (Civil), Tohana from Safidon.
- 2.) Learned counsel for the petitioner submitted that petitioner is due for retirement on 31.5.2017, therefore, transferring him from Safidon to Tohana is contrary to the transfer policy vide Annexure P-3 dated 19.11.1998. Para 2 of the order reads as under:-

*“2. Government have re-examined the matter and careful consideration have decided that in future this relaxation in tenure beyond five years shall*

*be admissible to only such employees as are due to retire within one year (repeat one year). In other words this maximum period of the five years shall also not apply to Government employees both gazetted and non gazetted who are due to retire within the next one year and they may be allowed to continue on their present posts till retirement.”*

Having regard to the above policy, the petitioner should not have been displaced. It was further submitted that earlier he was transferred from Safidon to Loharu on 4.2.2016. The same has not been effected even though a formal relieving order has been passed by the Sub-Divisional Officer on 4.5.2016 vide Annexure R-1. It was further submitted that an inquiry was held in respect of relieving and handling certain files by the petitioner and the Sub Divisional Officer in the office of Sub-Divisional Officer (Civil), Safidon has stated that the petitioner has not been relieved on 4.5.2016. Thereafter, the order of transfer dated 4.2.2016 has been cancelled on 5.7.2016. Thus, the petitioner continued to discharge the post of Assistant Superintendent at Safidon in the office of Sub Division Officer (Civil). In this background Annexure P-2 transferring him is not in order and it is not in public interest.

3.) On the other hand, learned counsel for the respondents submitted that the petitioner was transferred on 4.2.2016 to Loharu. Consequently, the Sub-Divisional Officer vide Annexure R-1 dated 4.5.2016 relieved the petitioner which reads as under:-

“Office of Sub Divisional Officer (Civil), Safidon

Order

*Subject : Relieving Sh. Rajpal, ASR O/O SDO (Civil),  
Safidon.*

*On the above mentioned subject and in reference to Haryana Government/Commissioner, Hisar Division, Hisar letter No.EA-4/737-51 dated 4-02-2016, Sh. Rajpal, ASR SDO (Civil), Safidon is transferred from SDO (Civil), Safidon to SDO (Civil), Loharu (Bhiwani). Send reply to relieve him today 4-5-2016 (A.N.) and also direct him to ensure his attendance in the office of SDO (Civil), Loharu (Bhiwani).*

*Sd/-  
Sub Divisional Officer (Civil)  
Safidon (Jind)*

*Endst. No.812 to 816                      dated 4-5-2016*

*One copy is sent to the following for information and necessary action:-*

- 1- Commissioner, Hisar Division.*
- 2- Deputy Commissioner, Jind/Bhiwani.*
- 3- Sub Divisional Officer @ Loharu.*
- 4-Sh. Rajpal ASR, O/O Sub Divisional Officer @ Safidon.”*

It was further submitted by learned counsel for the respondents that the petitioner and the Sub Divisional Officer, Safidon are hand-in-glove for the reasons that a formal order has been passed for relieving and it was bounden duty of the Sub Divisional Officer, Safidon and the petitioner in respect of implementation of Annexure R-1 for the reasons that the Sub-Divisional Officer is implementing the transfer order of his higher authority which is binding on both of them. During the intervening period from 4.5.2016 to 5.7.2016 even though the petitioner was relieved from service he has dealt certain important files in collusion with the Sub Divisional Officer. Thus, an inquiry was held. These events have not been stated in the pleadings of the petitioner. Therefore, having regard to the conduct of the petitioner, the petitioner is not entitled for relief sought in the present

petition.

4.) Heard learned counsel for the parties.

5.) It is undisputed that the petitioner was transferred on 4.2.2016 from Safidon to Loharu. Having regard to the conduct of the Sub-Divisional Officer as well as the petitioner, it is evident that nearly three months' time has been taken by the Sub Divisional Officer to give effect to the transfer order dated 4.2.2016. This is evident that petitioner and the Sub-Divisional Officer are in hand-in-glove. When the relieving order dated 4.5.2016 has been marked and communicated to the petitioner, it was bounden duty of the petitioner to get himself relieved. Assuming that the Sub-Divisional Officer has not shifted the petitioner, it was bounden duty of the petitioner to make necessary application or representation that he has to obey the order of transfer issued by the competent and higher authority to Sub-Divisional Officer if the petitioner real intention to obey the transfer order. On the other hand, he cannot seek shelter that the Sub-Divisional Officer has not relieved him. Further having regard to the conduct of the petitioner that during the intervening period from 4.5.2016 to 5.7.2016 that he was not supposed to discharge the duties of the post of Assistant Superintendent in the office of the Sub Divisional Officer, Safidon he has dealt with certain files. In view of these facts and circumstances even though policy decision of the Government that an officer or employee due for retirement he shall be continued in the post held by him would not be applicable as it has been superseded. Moreover, cited guidelines are not applicable it has not been extended from time to time. Annexure P-4 is for 2004-05 only. Therefore, there is no infirmity in the order of transfer dated

6.) Petition stands dismissed.

**(P.B. BAJANTHRI)**  
**JUDGE**

**February 20, 2017.**  
*sandeep sethi*

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.