

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

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CWP No.2345 of 2017

Date of Decision : 08.02.2017

Sanjay Singh

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Deepak Sonak, Advocate
for the petitioner.

AJAY TEWARI, J. (Oral)

By this petition the petitioner has challenged the order of transfer dated 27.01.2017 from Mahendergarh to Morni.

The petitioner joined as a Patwari in the year 2014 and got his original posting in Nahar, District Rewari which was his district. On 26.07.2016 he was transferred from his home district to Ambala. On 04.01.2017 i.e. in even less than six months he was again transferred to Kanina (Mahendergarh) which was also neighbouring District of Rewari. Now on 27.01.2017 he has been transferred from Kanina

Learned counsel has argued that this transfer order is bad for the three following reasons:-

- i. This is the third transfer in seven months;
- ii. In the impugned order it is not even mentioned that the order of transfer has been made in public interest.
- iii. The impugned transfer order has been made at the behest of respondent No.5 because the wife of the petitioner fought election of Sarpanch against the candidate sponsored/supported by the respondent No.5 and this order has been made because of that ill will.

The issue no.(iii) raised by the petitioner is a pure question of fact which cannot be determined in this petition. It is also quite possible that the petitioner was able to manage his re-transfer from Ambala to Kanina (Mahendergarh) within six months because otherwise there was no rational reason for reviewing the transfer order dated 26.07.2016 on 04.01.2017. It seems that the petitioner has also been using his own political contacts to get transfer order in his favour. Further the Supreme Court in the matter of ***Kendriya Vidyalaya Sangathan vs. Damodar Prasad Pandey, 2004 AIR (SC) 4850*** has held as under:-

“4. Transfer which is an incidence of service is not to be interfered with by the Courts unless it is shown to be clearly arbitrary or vitiated by malafide or infraction of any prescribed norms of principles governing the transfer (see Ambani Kanta Ray vs. State of Orissa, (Suppl) 4 SCC 169). Unless the order of transfer is vitiated by malafide or is made in violation of operative guidelines, the Court cannot interfere with it. (see Union of India vs. S.L. Abbas 1993 AIR(SC) 2444. Who should be transferred and posted where is a matter for the administrative authority to decide. Unless the order of transfer is vitiated by malafide or is made in violation of operative any guidelines or rules the courts should not ordinarily interfere with it. In Union of India & Ors. Janardan Debanath & Anr. 2004 (4) SCC 245 it was observed as follows:

"No government servant or employee of a public undertaking has any legal right to be posted forever at any one particular place or place of his choice since transfer of a particular employee appointed to the class or category of transferable posts from one place to another is not only an incident, but a condition of service, necessary too in public interest and efficiency in the public administration. Unless an order of transfer is shown to be an outcome of malafide exercise or stated to be in violation of statutory provisions prohibiting any such transfer, the courts or the tribunals normally cannot interfere with such orders as a matter of routine, as though they were the appellate authorities substituting their own decision for that of the employer/management, as against such orders passed in the interest of administrative exigencies of the service concerned. This position was highlighted by this Court

in National Hydroelectric Power Corpn. Ltd. vs. Shri Bhagwan (2001) 8 SCC 574".

In the circumstances, I find no reason to interfere with the impugned order. Petition is dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

February 08, 2017
ashish

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No