

Sr. No.112

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP No.26551 of 2017 (O&M)

Date of Decision:28.11.2017

Sukhveer Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. Vivek Sharma, Advocate,
for the petitioner.

TEJINDER SINGH DHINDSA, J.(ORAL)

CM No.17090 of 2017

Application is allowed, as prayed for.

The accompanying documents Salary Certificate dated 29.08.2016 (Annexure P-6), Salary Certificate dated 15.10.2016 (Annexure P-7), Transfer Policy dated 11.04.2017 (Annexure P-8) are taken on record.

Application disposed of.

Main Case

Challenge in the instant petition is to the order dated 11.10.2017 (Annexure P-4) issued by the Director Education Department (SE), Punjab to the extent that adjustment of the petitioner as Art and Craft Teacher in State College for Education, Patiala has been cancelled and he has been directed to report for duty at Government Senior Secondary School, Ajnaunda Kalan, Patiala.

Counsel would contend that the petitioner had been appointed

in the College Cadre and by virtue of the impugned order he has been sent against the School Cadre post and the same would virtually amount to a reversion.

Further argued that prior to passing of the impugned order, no opportunity of hearing was granted and which was necessary as towards implementation of the order dated 11.10.2017 (Annexure P-4), the petitioner would suffer adverse financial consequences.

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

Placed on record at Annexure P-1 is the copy of the order dated 06.08.2016 whereby petitioner while serving as an Art and Craft Teacher and belonging to the School Cadre had been adjusted /transferred at State College for Education, Patiala. The document placed on record at Annexure P-3 would clarify that the adjustment of the petitioner at State College for Education, Patiala as an Art and Craft teacher was against a School Cadre post. In other words, it was not a case of change of cadre but merely a transfer from one School Cadre post to another.

Vide impugned order 11.10.2017 (Annexure P-4) adjustment of the petitioner at State College for Education, Patiala has been cancelled and he has been called upon to discharge duties at Government Senior Secondary School, Ajnaunda Kalan, Patiala which is also a School Cadre post. It is essentially an order of transfer which is sought to be impugned.

The argument raised by counsel that he was vested with a right to be heard prior to the issuance of the impugned order is ill founded. The salary certificates placed on record at Annexures P-6 and P-7 would demonstrate that in pursuance to the implementation of the order dated

11.10.2017 (Annexure P-4), petitioner would loose out on the HRA component.

It is not a case whereby pay scale/grade pay or pay fixation of the petitioner would be done at a lower level.

Under such circumstances the petitioner cannot claim a right of hearing/serving of a notice prior to issuance of an order of transfer.

At this stage Mr. Sharma would attempt to place reliance upon a transfer policy dated 11.04.2017 (Annexure P-8) to contend that there was a general ban on transfers and as such the impugned order is violative of the terms and conditions of the transfer policy.

Even such submission is without merit. 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 the 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 Vs. S.L.Abbas, 1995 (4) SCT 455*.

For the reasons recorded above, there is no merit in the writ petition and the same is dismissed.

28.11.2017

vandana

(TEJINDER SINGH DHINDSA)
JUDGE

Whether speaking/reasoned

Yes

Whether Reportable

No