

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

CWP No.8683 of 2017 (O&M)

Date of decision : 15.05.2017

Mahabir Singh

..... Petitioner

versus

The State of Haryana and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present: Mr. Sandeep Goyatt, Advocate
for the petitioner.

AJAY TEWARI, J.(ORAL)

This is the 4th writ petition filed by the petitioner and his claim is that his case for Inter District Transfer has been wrongly rejected.

The petitioner has prayed that his cadre be shifted from District Rewari to District Rohtak or Jhajjar under Clause 3 (iv) of the Inter District Transfer Policy. On two prior occasions this Court had set aside the order. The first time when he had come to this Court, this Court had directed the respondents to consider his claim and pass a speaking order. He challenged the speaking order which was set aside and a direction was issued to pass a fresh order. The fresh order was passed and the prayer of the petitioner having been rejected he challenged it yet again and again that order was set aside. He has now come up against the last order in the series whereby his representation has been rejected. The main grouse raised by the petitioner is that right from the beginning the respondents have persisted in treating his

application for transfer to have been made under Clause XVI-B where as it was actually made under Clause 3 (iv).

Learned counsel points out that in the second round of litigation this Court had also noticed that the respondents had wrongly treated his application as having been made under Clause 3 (xvi) (b) whereby it has actually been made under Clause 3 (iv). Learned counsel has assailed the order on the ground that yet again the application has been treated as 3 XVI-B and not under Clause 3 (iv). That is one part of the story.

The second part is the merits of the claim of the petitioner. As per the case set out the father of the petitioner is suffering from Dilated Cardiomyopathy and as per the medical certificate (Annexure P-2) it is a chronic disease and of such a serious nature which requires special medical treatment and constant care by family members. On the last occasion, I had asked the learned counsel to explain to me the meaning of Dilated Cardiomyopathy and today he has informed the Court that his father is suffering from an enlarged heart. He has shown me the entire medical record and from the same it is seen that in the year 2011 the petitioner's father had got an Angiography done from Delhi and thereafter he has been on medication. On one occasion in 2016 also he had to be admitted to hospital but that was only for one day and as per the record shown to me the hospital managed the petitioner's father without any surgical intervention and discharged him the next day. It is also not disputed that the mother of the petitioner is living with his father and so are his wife and children.

Learned counsel has also accepted that the petitioner has a younger brother but states that he being unemployed is not in a position to look after his father. The issue before this Court is whether despite the fact that the father of the petitioner meets the parameters laid down in the policy it would still be appropriate to exercise extra ordinary jurisdiction. It cannot be lost sight of that in transfer matters normally the Courts have no role to play and it is only in an exceptional cases where the judicial conscience of the Court is shocked that the Court would be justified in interfering in a transfer order. No doubt the petitioner has been able to point out that the order was based only on the ground that the application of the petitioner had been moved under a wrong provision but keeping in view the entirety of the facts and the medical history of the father of the petitioner, I regret my inability to interfere in this matter in the extra ordinary jurisdiction of this Court.

The entire record shown by the learned counsel for the petitioner has been seen and returned back to the learned counsel.

Petition stands dismissed.

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

(AJAY TEWARI)
JUDGE

15.05.2017
pooja sharma-I

Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No