

Sr.No.139

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

LPA-2325-2017(O&M)

Date of Decision: 07.12.2017

Raj Kumar

.....Appellant

VS.

Union of India and others

....Respondents

**CORAM HON'BLE MR. JUSTICE MAHESH GROVER
HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI**

Present:- Mr.Chandeep Singh, Advocate for the appellant.

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MAHESH GROVER, J (ORAL)

The present appeal has been preferred against the order of the learned Single Judge dated 02.12.2017 which is reproduced as under:-

“ Admit.

Petitioner has challenged various orders of transfer dated 23.11.2013, 20.01.2014, 20.07.2017 and 16.11.2017. Undisputedly, petitioner has completed his tenure at Halwara as well as Home station posting on 23.11.2013. Thus, he is liable for transfer. He has been transferred on 23.11.2013. However, by virtue of interim order passed in earlier litigation, he is continued till 16.11.2017. Under Article 226 of the Constitution, Court cannot interfere in respect of administrative decision in particularly transfer as it is between employer and employee. Supreme Court in the case of State of Haryana and others v. Kashmir Singh and another; (2010) 10 SCC 306 in paras 12 and 14 held as under:

12. Transfer ordinarily is an incidence of service, and the courts should be very reluctant to interfere in transfer orders as long as they are not clearly illegal. In particular, we are of the opinion that transfer and postings of policemen must be left in the discretion of the State authorities concerned which are in the best position to

LPA-2325-2017(O&M) -2-

assess the necessities of the administrative requirements of the situation. The administrative authorities concerned may be of the opinion that more policemen are required in any particular district and/or another range than in another, depending upon their assessment of the law and other situation and/or other considerations. These are purely administrative matters, and it is well settled that courts must not ordinarily interfere in administrative matters and should maintain judicial restraint, vide *Tata Cellular v. Union of India*.

14. In our opinion, the High Court has taken a totally impractical view of the matter. If the view of the High Court is to prevail, great difficulties will be created for the State administration since it will not be able to transfer/deploy its police force from one place where there may be relative peace to another district or region/range in the State where there may be disturbed law and order situation and hence requirement of more police. Courts should not, in our opinion, interfere with purely administrative matters except where absolutely necessary on account of violation of any fundamental or other legal right of the citizen. After all, the State administration cannot function with its hands tied by judiciary behind its back. As Holmes, J. of the US Supreme Court pointed out, there must be some free play of the joints provided to the executive authorities.”

In the present case, petitioner has rendered 16 years and 7 months in DSC and he has served 8 years and 7 months in his home station. In view of these facts and circumstances, petitioner has not made out a case so as to stay the operation of the impugned transfer order so also order dated 16.11.2017 (Annexure P-22). Hence, interim prayer is rejected.”

The writ petition preferred by the appellant stands admitted. He has impugned the order of transfer therein.

We notice from the facts that out of the total tenure of 16 years and few months, he has stayed at one place for more than 8 years.

LPA-2325-2017(O&M)

-3-

No ground to interfere with the impugned order is made out.

The issue raised by the appellant is too trivial.

Dismissed with costs of Rs.20,000/- to be paid to the High
Court Employees Welfare Association within one month from today.

(MAHESH GROVER)
JUDGE

(RAJ SHEKHAR ATTRI)
JUDGE

07.12.2017
mamta

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No