

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

CWP No.10526 of 2017
Date of decision: 15.02.2018

Jeet Ram

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Johan Kumar, Advocate for the petitioner.
Mr. Hitesh Pandit, Addl. AG, Haryana.
Mr. Kuldeep Tiwari, Advocate for respondent No.3.

ARUN PALLI, J. (Oral)

A writ in the nature of certiorari is prayed for, to set aside the order dated 12.05.2017 (Annexure P3), vide which the petitioner was ordered to be transferred from Municipal Corporation Faridabad to Municipal Committee Sahabad. Concededly, the petitioner was appointed as Junior Engineer (Civil), pursuant to an order dated 15.03.1990 (Annexure P1), with the Faridabad Complex Administration (now known as Municipal Corporation Faridabad). On 14.08.2007, he was promoted to the post of Assistant Engineer w.e.f. 16.11.2005, and is thus working as such. The service conditions of the petitioner are governed by the Haryana Municipal Corporation (Recruitment & Conditions) Service Rules, 1998, and Rule 12 postulates that a member of service shall be liable to serve at any place in any Municipal Corporation in the State of Haryana on being ordered to do so by the appointing authority or the State Government. Those employed under

the Municipal Committee Sahabad and Municipal Corporation Faridabad are members of two separate and distinct cadre. There is no combined/common seniority of the employees of the Municipal Corporations and the Municipal Committees. Thus, the transfer of the petitioner is not only in breach of the service rules, but also out of cadre. Therefore, the petitioner could not be transferred to a separate cadre without his consent. On being pointedly asked, learned counsel for the respondents could not show as to how the impugned order could be sustained.

That being so, the only and the inevitable conclusion that could be reached is; that the transfer of the petitioner to Municipal Committee Sahabad is erroneous. Accordingly, the petition is allowed and the impugned order dated 12.05.2017 (Annexure P3) is set aside qua the petitioner only.

15.02.2018

Rajan

(Arun Palli)
Judge

Whether speaking / reasoned:

YES

Whether Reportable:

NO