

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CWP No.13936 of 2017(O&M)

Date of Decision:-18.12.2018

Neela Ram, Head Constable.

.....Petitioner.

Versus

State of Punjab & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. M.R. Sharma, Advocate for the Petitioner.

Mrs. Anu Chatrath Kapoor, Additional Advocate General,
Punjab.

JASWANT SINGH, J.

Petitioner-Neela Ram who is working as Head Constable in Punjab Police Force, has sought writ in the nature of Certiorari for quashing the order dated 25.04.2017 (P-2) passed by Additional Deputy Commissioner, Jalandhar, whereby he has been ordered to be transferred from Women Police Station, Jalandhar to Police Station Women in Mansa.

Learned Counsel for the petitioner has argued that vide the impugned order, petitioner has been ordered to be transferred out of his District, which is not permissible under the Rule 12.1(4) read with 12.26 of the Punjab Police Rules, 1934 without taking prior approval of the Deputy Inspector General of Police of both the Districts. As per him, by doing so, a

maintained District Wise and by way of the said transfer, petitioner is bound to loose his seniority. Since, in the present case, the order of transfer from one District to another has been passed, without taking the prior permission, hence his order of transfer is bad in the eyes of law and, therefore, liable to be quashed.

On the other hand, learned Counsel for the State has argued that the transfer of the petitioner from one place to other is not a punishment. The apprehension of the petitioner that he would loose seniority is completely mis-conceived, as with the enactment of Punjab Police Act, 2007, the seniority of District Police Cadres is maintained at Central Police Office level, in consonance with Section 4(b) of the said Act, 2007. It is further argued that in the present case, Rule 12.26 is not at all applicable because the Director General of Police had ordered the transfer of petitioner from Jalandhar to Mansa. Reliance has been placed upon the judgments passed by this Court in CWP No.9666 of 2017 decided on 10.05.2017 (R-1) and CWP No.13983 of 2016 decided on 29.07.2016 (**R-2**). Thus, prayer has been made for dismissal of the writ petition.

After scrutinizing the arguments raised by learned Counsel for both the parties and perusing the paper book with their able assistance, I am of the view that instant writ petition is liable to be dismissed.

A reading of Rule 12.26, as reproduced in para no.7 of the writ petition reveals that it is provided that the sanction of both the DIG's concerned is required i.e. from the range where the Head Constable was earlier posted and where he/she is sought to be transferred. However, the requirement is, at best, only directory for the sake of administrative reasons of the two ranges. Its violation, if any, in the changed circumstances would

neither be prejudicial to the seniority of the Constable nor would vest the employee/Constable a right to seek the strict enforcement of the said Rule, much less any right to question the transfer on such basis. That apart, the transfer order was passed by the DGP, who is head of the entire Police Department and, therefore, it has to be construed that there was substantial compliance of Rule 12.26. Further, this Court, in similar circumstances has already dismissed the writ petition of other Constables/Head Constables, which have been annexed with the reply filed by the State as Annexure R-1 and R-2.

In view of the above, finding no merit in the instant writ petition, the same is hereby dismissed.

(JASWANT SINGH)
JUDGE

December 18, 2018
Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>