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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-18964-17

Date of Decision : October 16, 2018

Suresh Kumar

.... Petitioner.

Versus

Life Insurance Corporation of India and others.

.... Respondents.

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present Mr. Ashutosh Kaushik, Advocate
for the petitioner.

Mr. Saurav Verma, Advocate
and Mr. Akash Soni, Advocate,
for respondents No. 1 to 4.

Mr. P.K. Longia, Advocate,
for respondent No.5.

SHEKHER DHAWAN, J.

Present writ petition under Articles 226/227 of the Constitution of India is for issuance of a writ in the nature of certiorari for quashing order dated 5.7.2017 (Annexure P/6) vide which the representation of the petitioner has been disposed of in an illegal and arbitrary manner. Petitioner has also sought quashing of order dated 19.5.2017 (Annexure P/1) whereby he has been transferred from Karnal Division to Ludhiana Division with a further prayer to quash order dated 16.6.2017 (Annexure P/9) whereby Renu Sen, respondent No. 5 herein, has been transferred

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and posted at Karnal Division replacing the petitioner.

2. As per the petitioner, he joined Life Insurance Corporation of India (for short, "the respondent-Corporation") on 11.9.1998 and was a regular employee and had been discharging his duties honestly. He was promoted to various posts on different dates and became Administrative Officer in the respondent-Corporation. Vide impugned order dated 19.5.2017 (Annexure P/1), the petitioner was transferred from Karnal Division to Ludhiana Division, Punjab and he was relieved of his duties on 10.06.2017 and joined at Ludhiana on 12.06.2017. The petitioner made representation to the respondent on 21.06.2017 and the said representation was rejected vide order dated 20.7.2017 (Annexure P/5).

3. At the time of arguments, learned counsel for the petitioner contended that the case of the petitioner was not considered favourably even on his representation to the respondents, though his similarly situated colleagues were accommodated vide Annexure P/6 and thereafter some more officers of the respondent-Corporation were transferred to Karnal Division vide order, Annexure P/9 and it is a case of discrimination with the petitioner and the transfer of the petitioner being *mala fide*, the impugned order of transfer is liable to be quashed.

4. Learned counsel for the respondent-Corporation contended that there was absolutely no bias while passing the impugned order, but the order was passed on administrative grounds as the petitioner herein had already over-stayed at Karnal as he joined there on 3.10.2008 and remained in Karnal for about seven years and then he was transferred to

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Ludhiana on 12.6.2017. The representation dated 24.5.2017 (Annexure P/3) filed by the petitioner was disposed of by passing a speaking order dated 5.7.2017 (Annexure P/5).

5. As regards to discrimination with the petitioner, the respondents had detailed in Annexure P/6 itself which was duly communicated to the petitioner that “one female officer from outside D.O. Karnal was allotted to Karnal DO on promotion being a female case and considering her stay outside Karnal DO, age and family circumstances.” As per Regulation 20 and 80 of LIC of India (Staff) Regulations 1960 (hereinafter referred to as “the relevant Regulations” , the transfer order was passed on administrative grounds only and as per the relevant Regulations applicable to the petitioner as well.

6. Learned counsel for the parties have advanced their arguments on the above lines.

7. Having considered the submissions made by learned counsel for the parties and appraisal of the record, this Court is of the considered view that the petitioner has not been able to make out a case that his transfer order was on account of some *mala fide* or for extraneous considerations, but the same was on administrative grounds and as per the relevant Regulations applicable to the petitioner and it is not a case of discrimination with the petitioner while accommodating some other employees for some justified grounds and while exercising administrative discretion judiciously. The petitioner has been transferred keeping in view his longer stay at DO, Karnal.

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8. Identical matter was before Hon`ble Supreme Court in **Union of India Vs. N.P. Thomas, 1994(1) SCT 46** and it was observed as under:-

“8 . In the present case, it cannot be said that the transfer order of the respondent transferring him out of Kerala Circle is violative of any statutory rule or that the transfer order suffers on the ground of mala fide. The submissions of the respondent that some of his juniors are retained by Kerala Circle and that his transfer is against the policy of the Government posting the husband and wife in the same station as far as possible cannot be countenanced since the respondent holding a transferable post has not vested right to remain in the Kerala Circle itself and cannot claim, as a matter of right, the posting in that Circle even on promotion.”

9. Similar matter was also before Hon`ble Apex Court in **State of Madhya Pradesh Vs. S.S. Kourav, 1995(2) SCT 195,** wherein, Hon`ble Apex Court observed as under:-

“4 . It is contended for the Respondent that the Respondent has already worked at Jagdalpur from 1982 to 1989 and when he was transferred to Bhopal, there was no justification to retransfer him again to Jagdalpur. We cannot appreciate these grounds. The courts or Tribunals are not appellate forums to decide on transfers of officers on administrative grounds. The wheels of administration should be allowed to run smoothly and the courts or tribunals are not expected to interdict the working of the administrative system by transferring the officers to proper places. It is for the administration to take

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appropriate decision and such decisions shall stand unless they are vitiated either by ***mala fides*** or by extraneous consideration without any factual background foundation. In this case we have seen that on the administrative grounds the transfer order came to be issued. Therefore, we cannot go into the expediency of posting an officer at a particular place.”

10. In view of the above, there is no merit in the present writ petition and the same stands dismissed

(SHEKHER DHAWAN)
JUDGE

October 16 , 2018.
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Whether speaking/reasoned?	:	Yes
Whether reportable?	:	Yes