

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

CWP No.17354 of 2018

Date of Decision:-14.09.2018

Jarnail Singh.

.....Petitioner.

Versus

State of Punjab & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Gurmeet Singh Guri, Advocate for the Petitioner.

Ms. Sudeepti Sharma, Additional Advocate General, Punjab.

JASWANT SINGH, J.(ORAL)

Petitioner is serving as a Library Attendant (a class-IV employee) and is stated to have attained the age of superannuation of 60 years on 31.03.2019.

Challenge is to the order dated 11.07.2018 (Annexure P-1) passed by the District Education Officer (Senior Secondary), Ludhiana, whereby the petitioner has been transferred from SSSS Kadon, (Ludhiana) to SSSS Dhudahoor (Ludhiana).

Counsel for the petitioner has argued that in view of the petitioner due to retire within next 08 months the impugned transfer is against Clause-B of the Transfer Policy dated 19.04.2012, which provides that an employee shall be permitted to stay at the place of his posting if he is

the respondents in their written statement is that the petitioner has been transferred on account of a complaint against him which cannot form basis since the petitioner has not been associated in that inquiry.

On the other hand learned State Counsel on instructions from Mr. Charanjit Singh, Deputy DEO (SE), Ludhaina and relying upon the assertions in the written statement points out that there are complaints of grave mis-behaviour on part of the petitioner, who is otherwise habitual in taking part in politics thereby vitiating the atmosphere of the School. She states that the petitioner for his misconduct has been chargesheeted on 11.07.2018 (R-5) for imposition of major penalty on the stated misconducts. She thus states that the cited condition is further with a rider that the retiring employee shall be permitted to stay as far as possible. Keeping in view the other provisions of the Policy wherein it is stated that transfers can be made at any time on administrative and exceptional grounds, The present case falls under such parameters.

After hearing learned Counsel for the parties, this Court is not inclined to interfere in the matter. Before issuing a chargesheet for imposition of major penalty into alleged misconducts, a preliminary inquiry has been completed wherein prima facie the petitioner has been found to have indulged in activities prejudicial to the interest of the school. It is well accepted in service jurisprudence that an employee is liable to serve anywhere where he has been posted, since transfer is only an incidence of service not a condition. The violation of Policy in given case does not give rise to any enforceable right. To a pointed query, it is conceded that the petitioner has remained at the previous place of posting since 2012 and thus in terms of the same policy was liable to be transferred on completion of

three years.

Dismissed.

(JASWANT SINGH)
JUDGE

September 14, 2018
Vinay

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