

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

Date of Decision:-13.11.2018

CWP No.27204 of 2018

Achhar Singh & Ors.

.....Petitioners.

Versus

Union of India & Ors.

.....Respondents.

2

CWP No.27631 of 2018

Jatinder Kumar.

.....Petitioner.

Versus

Union of India & Ors.

.....Respondents.

3

CWP No.27367 of 2018

Neeraj Kumar Rathi & Ors.

.....Petitioners.

Versus

Union of India & Ors.

.....Respondents.

AND

CWP No.27622 of 2018

Sanjeev Kumar.

.....Petitioner.

Versus

Union of India & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Ajay Chaudhary, Advocate for the Petitioner(s)
(in CWP Nos.27204 &27367 of 2018).

Mr. Rujhan Dhawan, Advocate for
Mr. Karan Singla, Advocate for the Petitioner(s)
(in **CWP No.27622 of 2018**).

Mrs. Priyanka Malik, Advocate for the Petitioner
(in CWP No.27631 of 2018).

Mr. Shivoy Dhir, Central Government Counsel assisted by
Lt. Neha Manhas, Officer Incharge, Legal Cell, Chandimandir.

JASWANT SINGH, J.(ORAL)

In the aforesaid **four** writ petitions, there are 14 petitioners who are serving as Civil Motor Drivers/Cleaners with the ASC Units situated in the Northern Region.

By filing the aforesaid writ petitions they have challenged their transfers from their place of posting in the Northern Region to the Unit situated in Eastern Region as also in the Northern Region.

During the course of hearing on the previous date of hearing on 31.10.2018, keeping in view the individual projected hardships of the petitioners, the Authorities were directed to have a re-look at their transfer in view of the Policy. The order dated 31.10.2018 reads as under:-

“ There are total 14 petitioners who are serving as Civil Motor Drivers/Cleaners with ASC Units situated in the Northern Region. They are serving in Peace Station for more than five years i.e. the minimum tenure of posting in a Peace Station. They have impugned two separate common orders, whereby along with many other Civilians the petitioners have been transferred to Units located outside the Northern region. In terms of the last Transfer and Posting Policy dated 6.3.2014, they are impugning their transfer orders being outside the Northern Region.

After hearing counsel for the parties, it bares out that such civilians in terms of Clause 5 of the Policy can be outside

the region also, therefore, stricto sensu no grievance can be entertained in case of transfer outside the region upon serving the minimum tenure of posting at a Peace Station. The action of the respondents is thus unassailable.

However, keeping in view the individual projected hardships, the respondents are directed to sympathetically consider the individual cases in accordance with the instructions and the situations existing on ground.

For this limit purpose, the notice is issued for 13.11.2018.

On the asking of the Bench, Mr. Shivor Dhir, Central Govt. Counsel assisted by Ms. Nehal Manhas, Officer Incharge Legal Cell, Chandimandir accepts notice.

To be shown in urgent.

Photocopy of this Order be placed on the files of connected cases. ”

At the time of hearing today, Mr. Shivoy Dhir, Central Government Counsel assisted by Lt. Neha Manhas, OIC, Legal Cell states that competent authority has reconsidered the transfer orders of the petitioners and declined the requests vide order dated 10.11.2018.

Copy of the order dated 10.11.2018 have been supplied to the counsel opposite in Court and copy of the same is also taken on record.

A perusal of the order reveals that as per the Policy, Civilian Employees like the petitioners have the liability to serve anywhere in India. It is conceded that all the petitioners have exceeded their tenure periods permitted for Peace Stations and were thus liable to be transferred. Para 5 of the order reveals necessity for affecting the transfer orders, which reads as under:-

“ Further considering posting in r/o above mentioned indls anywhere within the zone/region is not feasible in order to route Civil GT pers from field to peace, keeping in view of

crucial role of Civil Motor Drivers in field area located in Eastern and Northern region, in extending assistance to fighting troops which is having paramount importance to the security of nation and in accordance with policy on the subject their posting was issued to field area as their peace tenure has already been overshooted long back. As they were staying since long time in the same peace unit and therefore to rotate Civil Motor Drivers from field to peace, their posting order were issued from peace station to field station on turnover basis. ”

In view of the above that the transfer is an incidence of service and violation of the instructions, if any, do not vest enforceable right, this Court is not inclined to invoke writ jurisdiction for accepting the prayer for cancellation of the transfer orders moreso in view of the reasons fur such transfers.

In view of the foregoing discussion, all the aforesaid four writ petitions are hereby dismissed.

(JASWANT SINGH)
JUDGE

November 13, 2018
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No