

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

**Civil Writ Petition No. 27848 of 2018 (O&M)
Date of Decision: 31.10.2018**

Harinder Singh Chahal

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Salil Sagar, Senior Advocate, assisted by
S/Sh. Sankalp Sagar and Sunil Kumar, Advocates
for the petitioner.

JASWANT SINGH, J.

Petitioner (*Harinder Singh Chahal*) who is working as Executive Officer in the Department of Local Bodies, Government of Punjab (respondent No.1) has a grievance that the order of transfer dated 26.10.2018 (**Annexure P-6**) issued by respondent No.2 be set aside as illegal, *mala fide* and arbitrary against the Transfer Policy dated 23.04.2018 framed by and on behalf of respondent No.1 which regulates the transfer of Group 'A' and 'B' employees. He has also sought a relief of mandamus vide which respondent be directed not to transfer the petitioner present post of posting with Improvement Trust Bathinda i.e. respondent No.4 and allow the petitioner to continue to work with respondent No.4.

Learned counsel for the petitioner has argued that respondent No.1 in order to bring uniformity and remove arbitrariness and personal preferences of officials and further to regulate the transfer and posting of Government employees and employees of Boards, Corporations, Public Sector undertaking, framed policy dated 23.04.2018 (**Annexure P-1**). The

said policy was to regulate the transfers and postings of Group 'A' and 'B'

Government employees in various Government Departments, Corporations, Boards and Autonomous Bodies. The said policy clearly stipulates that employees of Group 'A' and 'B' category should not be transferred before minimum period of two (02) years, except in special administrative circumstances or consideration of grave personal difficulties of the employees. It has further contended by the counsel for petitioner that the petitioner still working on the post of Executive Officer in the Department of Local Bodies, Government of Punjab (respondent No.1) for the last many years was granted posting with respondent No.4-Trust vide order dated 19.07.2018.

Respondent No.2 vide order dated 28.09.2018 (**Annexure P-3**) convened a review meeting with regard to illegal encroachments in various Improvement Trusts as the illegal encroachment was existing in the city of Bathinda. The petitioner in the light of above said order prepared a letter dated 04.10.2018 (**Annexure P-4**) whereby highlighted various illegal encroachments in various Trusts schemes in the city of Bathinda and transmitted the same to respondent No.2. But respondent No.2 ordered the petitioner to file a detailed report highlighting the said illegal encroachments in various Trust schemes in the city of Bathinda and actions being taken in this regard. In compliance of the letter, the petitioner vide letter / order dated 23.10.2018 prepared a detailed report wherein he clearly highlighted the various illegal encroachments in various Trust schemes in the city of Bathinda. But surprisingly later on, respondent No.2 vide impugned order dated 26.10.2018 (**P-6**) ordered the transfer of the petitioner to Improvement Trust Abohar. Respondent No.2 has passed impugned order

policy applicable to the case of petitioner. At last, he has contended that the impugned order has been passed by the respondents in clear cut violation of Transfer Policy as it has been passed within three months from the date of initial posting of petitioner at present posting station vide order dated 19.07.2018 (P-2). In this manner, the writ may kindly be allowed and the impugned order of transfer may kindly be set aside.

At the very outset of the case, this petition deserves its dismissal. The impugned order of transfer dated 26.10.2018 (P-6) runs as under:-

“
GOVERNMENT OF PUNJAB
DEPARTMENT OF LOCAL GOVERNMENT
(LOCAL GOVERNMENT-2 BRANCH)

ORDER

While keeping in view the Administrative requirements and public welfare, the transfer of Shri Harinder Singh Chahal, Executive Officer, Town Improvement Trust, Bathinda, while withdrawing the additional charge given to Shri Gora Lal, Executive Officer, Town Improvement Trust, Abohar, is hereby made at Town Improvement Trust, Abohar.

- 2. The employee would make it ensure to give information to the government after submitting their joining report within a period of 24 hours. In the event of non submission of report, the disciplinary action will be initiated in accordance with rules/instructions.*
- 3. No T.A/D.A of allowance will be provided to the authority for the posting or for additional charge.*
- 4. That concerned authorities would draw their salary from the place of their posting.*
- 5. These order will be applicable forthwith.*

*Dated: Chandigarh
26 October 2018*

*A Venu Prasad, I.A.S.
Principal Secretary, Government
of Punjab, Local Government
Department ”*

Now having cursory perusal of the transfer order dated 26.10.2018 (P-6) referred above, it clearly indicates that the petitioner has been transferred from his present posting station due to some administrative reasons. The transfer policy dated 23.04.2018 (P-1) also leaves no manner of doubt that due to some special administrative circumstances an employee of Group 'A' and 'B' can be transferred from his present post of posting before completion of minimum period of two years as envisaged in this Policy. Meaning thereby, it is not disputed that the normal practice of respondent is to effect transfer of an employees after period of two years unless administrative circumstances make it obligatory to transfer the employee earlier than the said period. It is no doubt true that the Government has power to transfer its employee employed on a transferrable post. But this power has to be exercised *bona fide* to meet the exigencies of the administration. A provision of transfer is intended to check creation of vested interests, nepotism and corruption. It is true that nobody has a right to say that he cannot be transferred without his consent. A transfer of a Government servant to a similar post in the same cadre is a normal feature and incident of Government service. No Government servant can claim to remain posted in a particular place or in a particular post unless, of course, his/her appointment itself is to be specified, a non-transferrable post. It is equally true that an executive instructions of a Policy decision cannot confer any enforceable legal right to a Government employee. These instructions could be directory in nature. It is equally well settled that Court should not interfere with the orders of transfer, which are issued in the exigency of service and in discharge of administrative or executive power. It is also an implied condition of service and appointing authority has a wide discretion

in the matter. The Government is the best judge to decide how to distribute and utilize the services of its employees.

The transfer of petitioner from the present posting is not vitiated by *mala fides* and is not made in violation of the transfer policy. In the transfer order, it is clearly recorded that the transfer order has been passed by taking into consideration the administrative requirements and public welfare.

As such, this Court does not see any good and legal ground to interfere in the impugned transfer order dated 26.10.2018 (P-6).

As a cumulative effect of my above observations, the instant petition is hereby **dismissed**.

October 31, 2018

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**(JASWANT SINGH)
JUDGE**

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