

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

C.W.P. No.8466 of 2018

Date of Decision:-11.05.2017

Nirmal Balhara

...Petitioner

VS.

State of Haryana and others

...Respondents

BEFORE :- HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Mahavir Sandhu, Advocate,
for the petitioner.

Mr. Rajesh Gaur, Addl.A.G., Haryana.

Sudhir Mittal, J. (Oral)

The petitioner seeks a writ in the nature of certiorari for quashing order dated 2.2.2018 (Annexure P-3) whereby she has been transferred from Civil Hospital, Rohtak to Primary Health Centre, Dhand.

Pursuant to notice of motion issued by this Court, written statement has been filed on behalf of official respondents No. 1 to 3.

The submission of learned counsel for the petitioner is that the petitioner, who is a widow, was posted to the Civil Hospital, Rohtak in the year 2014. As per the transfer policy (Annexure P-4) dated 6.10.2004, a widow should be adjusted at the station opted for by her as far as possible. The petitioner has been posted out without seeking any option from her on the basis of a complaint dated 2.7.2015, in which allegations have been made that she is participating in political activities and the same is violative of the Service Rules. Thus, even if it is to be held that the petitioner has violated the Service Rules on account of participation in political activities, disciplinary proceedings could have been initiated against her.

No order of transfer could have been passed in violation of the Policy (Annexure P-4).

Learned State counsel argues that out of her total service, the petitioner has remained in District Rohtak for 22 years. She was posted to Civil Hospital, Rohtak in the year, 2012 and thus, her transfer on 2.2.2018 does not violate the transfer policy as it envisages transfer after 2 years. Moreover, the petitioner has violated the Service Rules by indulging in political activities and, therefore, the transfer order is justified.

Having heard learned counsel for the parties, I am of the view that there is no illegality in the impugned order dated 2.2.2018. The petitioner admits that she remained the President of Haryana Jaat Sabha (Mahila Wing) and she did apply for a ticket for election to the State Legislative Assembly. Thus, it is obvious that the petitioner is participating in political activities and the same is violative of Service Rules. Consequently, the respondents are justified in transferring her from her present place of posting. There is no violation of the policy Annexure P-4 as the stipulation is that a widow must be adjusted as far as possible. There is no bar on posting a widow out in case she has violated the Service Rules. The argument that disciplinary proceedings could have been initiated against the petitioner for violation of the Service Rules instead of transferring her, is a self-defeating argument. The petitioner would be served better by the transfer rather than initiation of disciplinary proceedings.

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

May 11, 2018

poonam

Whether Speaking/Reasoned

(SUDHIR MITTAL)

JUDGE

Yes

Whether Reportable

Yes