

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

**LPA No.1126 of 2018(O&M)
Date of decision: 21.08.2018**

Suresh Goel

... Appellant

Versus

State of Haryana and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE KRISHNA MURARI,
CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present: Mr. Sudershan Goel, Advocate for the appellant.

KRISHNA MURARI, C.J. (Oral)

This intra-court appeal filed under Clause X of the Letters Patent is directed against the judgment and order passed by the learned Single Judge dated 09.07.2018 allowing the writ petition and setting aside the order transferring the petitioner-respondent No.3.

The facts are that vide impugned order dated 11.06.2018, the appellant, who was holding the post of Sub Divisional Engineer, was transferred from PHESD No.2, Faridabad to PHED No.1, Palwal, replacing petitioner-respondent No.3, who was posted there as an Executive Engineer. The appellant was given current duty charge on the said post. Learned Single Judge finding that Executive Engineer has been replaced by transferring and posting a Sub Divisional Engineer and that a writ petition in respect of seniority of the Sub Divisional Engineers is pending adjudication before this Court where there is an interim order restraining the department from making regular promotions and bye-passing that the current duty charge on the post of Executive Engineer has been given to a Sub Divisional Engineer, allowed the writ petition.

Learned counsel for the appellant submits that on the said date only his stay vacation application was listed and, therefore, the learned Single Judge could not have disposed of the writ petition itself.

We are afraid the argument is too technical to be accepted. Not only the appellant was duly represented by a counsel before the learned Single Judge but was heard also as is clear from the judgment of the learned Single Judge. In the facts and circumstances of the case noted hereinabove, the order passed by the learned Single Judge is not liable to be set aside and the appeal is not liable to be allowed on such hyper-technical consideration that only stay application was listed and main case was not listed. Once the matter was heard by the learned Single Judge and the parties were duly represented, no exception can be taken on that count.

Even otherwise, on merits the replacement of a Sub Divisional Engineer by giving him the current duty charge of the post of Executing Engineer also does not stand the test of reason, coupled with the facts that the Executive Engineer was transferred for 7th time within a period of four years. All the facts aforesaid clearly demonstrate that the learned Single Judge has rightly taken up the issue and decided the writ petition and the judgment cannot be faulted requiring any interference.

The appeal being devoid of merit is accordingly dismissed.

(Krishna Murari)
Chief Justice

(Arun Palli)
Judge

21.08.2018
Rajan

Whether speaking / reasoned:
Whether Reportable:

YES
NO