

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

CWP No.1385 of 2019 (O&M)

Date of decision:11.07.2019

Anil Ahlawat

... Petitioner

Vs.

The Haryana State Cooperative Supply
and Marketing Federation Limited

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Rajesh Garg, Senior Advocate with
Ms. Nimrata Shergill, Advocate
for the petitioner.

Mr. Hitesh Pandit, Additional Advocate General, Haryana.

AMIT RAWAL J. (Oral)

Challenge in present writ petition is to impugned order dated 04.01.2019 (Annexure P-1) whereby petitioner according to averment in petition has been transferred four times within a span of about 15 months.

Mr. Rajesh Garg, learned Senior counsel assisted by Ms. Nimrata Shergill, Advocate appearing on behalf of petitioner drew attention of this Court to the chart qua transfers extracted in para 3 of writ petition whereby from September 2017 to January 2019 including impugned order, he has been transferred twice in Karnal.

It was next contended that incumbent replacing the petitioner has already been allowed to join and petitioner sought time for joining owing to illness of his father. The petitioner has not been paid salary and

some other incumbent has been posted at Kaithal. There is complete violation of Rule 9 of Haryana State Supply and Marketing Cooperative Service Common Cadre Rules 1988 as incumbent's home district is Karnal.

Per contra, Mr. Hitesh Pandit, Additional Advocate General, Haryana submitted that statement recorded in interim order was wholly incorrect, for, petitioner was already relieved which fact is evident from Annexure R-2 which has been intentionally withheld from notice of Court whereby he sought time for joining the post owing to illness of his father. Attention of this Court was also drawn to Annexures R-2 and R-3 in this regard.

As regards no payment of salary, it was contended that there was also concealment of fact that vide two letters dated 27.02.2019 and 01.05.2019, handed over to this Court, wherein, department requested the petitioner to join head quarter but of no avail and thus, urged this Court for dismissal of writ petition.

I have heard learned counsel for the parties, appraised the paper book and of view that there is no force and merit in submissions of Mr. Rajesh Garg. It would be in the fitness of things to extract contents of letters dated 27.02.2019 and 01.05.2019, Annexures R-2 and R-3 which read thus:-

27.02.2019

“No.Hafed/Admn./A-1/930

Dated 27.02.2019

Sh. Anil Ahlawat,

Deputy General Manager (Proc. & WH),

Hafed, Karnal.

Subject: Regarding joining as DM, Hafed, Karnal after availing leave.

Reference your letter dated 13.02.2019 on the subject cited above.

Since Sh. M.L.Poswal has already been working as the District Manager, Hafed, Karnal w.e.f. 05.01.2019 (F/N), you are, therefore, advised to submit your joining at Head Office, Panchkula so that further necessary action may be taken.

Further, in continuation to the joining time allowed to you from 05.01.2019 to 12.01.2019 vide letter no. Hafed/Admn./A-1/382 dated 22.01.2019, the period of your absence from duty from 14.01.2019 to 13.02.2019 is hereby treated as leave of kind due.

Sd/-

General Manager (Admn.-I)

for Managing Director, Hafed.

CC: District Manager, Hafed, Karnal for information and with the advise to deliver the above letter to Sh. Anil Ahlawat, Deputy Manager (Proc. & WH) under proper receipt.

CC: P.S. To M.D for kind information of Managing Director, Hafed.”

01.05.2019

“No.Hafed/Admn./A-1/1732

Dated 01.05.2019

Sh. Anil Ahlawat,
S/o Sh. Inder Singh,
H.No.988, Sector 9, U.E.
Karnal.

Subject: Regarding joining at Head Office, Panchkula.

Refer to this office letter No.Hafed/Admn./A-1/930 dated 27.02.2019 vide which you were directed to submit your joining report at Head Office, Panchkula so that further necessary action may be taken because Sh.M.L.Poswal had already been working as District Manager, Hafed, Karnal w.e.f. 05.01.2019 (F.N.). In spite of the receipt of the said letter through the District Manager, Hafed, Karnal you did not join duty at Head Office, Panchkula.

You are, therefore, hereby treated as willful absent from duty w.e.f 28.02.2019. You are, however, again advised to join duty at Head Office, Panchkula as per order already conveyed to you.

Sd/-

General Manager (Admn.-I)

for Managing Director, Hafed.

CC: District Manager, Hafed, Karnal for information w.r.t. Your letter no.Hafed/DO/KNL/Steno/PF/4748 dated 02.03.2019 and with the advice to deliver a copy of this letter to Sh. Anil Ahlawat, DGM (Proc.) under proper receipt.

CC: P.S. to M.D for kind information of Managing Director, ”

It appears that petitioner had actually been relieved and therefore, statement made on his instructions before the Court was totally false and incorrect. Non-payment of salary can be one of the grounds but owing to non-joining remained gritty necessitating the respondents to replace him with some other incumbent. The focus of his transfer has also

been targeted at the joining of Mr. M.L.Poswal which is in violation of Section 9 as he belonged to home district. There is no prayer of quo warranto and therefore, the same is rejected.

The office of Mr. Rajesh Garg, learned Senior counsel has not seen the contents of letters dated 27.02.2019 and 01.05.2019 with regard to joining at Head Office whereby petitioner was repeatedly requested to join the head office. Non-joining is atrocious and fallacious approach and the Court cannot come to the rescue of petitioner. Stay granted by this Court, vide order dated 18.01.2019 is hereby vacated.

No ground for interference is made out.

Dismissed.

(AMIT RAWAL)
JUDGE

July 11, 2019
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No