

Sr. No.235

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

CWP No.3349 of 2019 (O&M)

Date of Decision: 23.10.2019

Surinder Singh

... Petitioner

Versus

Food Corporation of India and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Tribhuvan Dahiya, Advocate,
for the petitioner.

Mr. Gurminder Singh, Senior Advocate with
Mr. K.K.Gupta, Advocate,
for the respondents.

ARUN MONGA, J.(ORAL)

CM No.15955-CWP of 2019

Application is allowed, as prayed for, subject to all just exceptions.

Annexures P-8 and P-9 are taken on record.

Main case

Grievance of the petitioner is that vide impugned transfer order dated 01.02.2019 (Annexure P-4), the petitioner has been transferred to Headquarters of the respondent Corporation at New Delhi in violation of the Transfer Policy dated 12.02.2014 (Annexure P-3).

2. Learned counsel for the petitioner contends that as per the transfer policy of Food Corporation of India, normal tenure of stay of a Category-I Officer at a station is three years. He further

points out that as per Clause 4.3.4 of the Transfer Policy, where one spouse is employed in FCI and the other spouse is employed under the State Government, the spouse employed under the FCI may apply to competent authority for her/his posting to the Station where the other spouse is posted.

3. In accordance with the said policy, the petitioner, who is a Category-I Officer was transferred from Delhi to Chandigarh in view of the fact that his wife was transferred from Faridabad to Kalka as Principal, ITI. The petitioner was posted at Chandigarh on 01.05.2017 and still has not finished his tenure, as per Clause 2.2 of the Transfer Policy. Notwithstanding, vide impugned order dated 01.02.2019 (Annexure P-4), the petitioner has been again posted from Chandigarh back to Delhi.

4. Learned counsel further points out that the same is also in violation of Clause 6.8 of the Transfer Policy which envisages that the employees whose children are in Class X to XII may not be transferred and their case would be considered by competent authority on merits subject to administrative convenience. He further submits that both the children of the petitioner are school going and are currently studying in Class 7th (son) and 11th (daughter), respectively.

5. Be that as it may, transfer being matter of administrative exigencies, this Court generally interferes, if at all, very cautiously. Transfer is not a punishment but an essential aspect of service, particularly, on a transferable post.

6. Writ petition is, however, disposed of with a direction to the respondents to objectively consider the representation dated

06.09.2019 (Annexure P-9) particularly by considering medical ailment of the petitioner sympathetically and also by keeping in view the contents of this petition by treating it as a supplementary representation and pass a speaking order, in accordance with law. It would be appreciated if the contentions of learned counsel for petitioner as noted above are borne in mind while passing the fresh order aforesaid.

7. Let the needful be done within a period of 02 months from the date of receipt of certified copy of this order.

8. Until the passing of fresh order as aforesaid, the impugned transfer order dated 01.02.2019 (Annexure P-4) shall be kept in abeyance qua the petitioner.

9. In case an adverse order is passed, it is expected of the respondents to give fair opportunity to the petitioner to seek appropriate remedy and until the same is done, such order would not be implemented for a period of 15 days with effect from the date of its passing.

10. Disposed of in above terms.

(ARUN MONGA)
JUDGE

23.10.2019
vandana

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No