

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

CWP No.4738 of 2019 (O&M)
Date of decision: June 06, 2019

Jatinder Singh Chhina ...Petitioner

Versus

State of Punjab and others ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Abhilaksh Grover, Advocate for the petitioner.
Ms. Ishneet Kaur, AAG, Punjab.

Rajan Gupta, J.(oral)

Petitioner has prayed for a writ in the nature of certiorari for quashing of transfer order dated 25.01.2019 (Annexure P-7).

Petitioner was appointed as SDO Electrical in PWD Punjab on 20.6.1990. In the year 2016, he posed a challenge to promotion of his junior one Vikas Gupta as Superintending Engineer. In the said case (CWP No.20800 of 2016), notice of motion was issued on 3.10.2016. Thereafter, petitioner was transferred from Faridkot to Head Office, Patiala vide order dated 05.07.2017. He challenged this order vide CWP No.15395 of 2017 on the ground that transfer was malafide. Petitioner was transferred back to Faridkot and petition was rendered infructuous. As per the petitioner, in May, 2017, his increments were stopped. He posed a challenge to this order vide CWP No.24899 of 2017. Notice of motion was issued therein. Petitioner has also stated that he posed challenge to promotion of other departmental officials as well and an LPA in this regard is pending. In

April, 2018, petitioner was again transferred from Faridkot to Patiala. He challenged this order by way of CWP No.15395 of 2017. Petitioner claims that he was transferred back to Faridkot again. He was thereafter transferred to Ludhiana in the Electrical Division. In January, 2019, the department took a decision to revamp the existing wings such as Civil, Electrical, Mechanical and Horticulture to curb the expenditure. In view of same, it created some Divisions and Sub Divisions attached to the office of Chief Engineer, Electrical, PWD (B&R), Punjab. Consequently, petitioner who was working as Executive Engineer, Ludhiana, vide order dated 25.01.2019, was transferred to newly carved out post of Executive Engineer (Technical), in the office of Chief Engineer (Electrical), Chandigarh. His stand is that it was Mechanical Division, Ferozepur, which has been renamed as Executive Engineer (Technical). Executive Engineer (Mechanical), Ferozepur was transferred to Electrical Division, Ludhiana, where petitioner was posted. This action was arbitrary as it resulted in transfer of the petitioner to the post of Executive Engineer (Technical), in the office of Chief Engineer (Electrical), Chandigarh. According to him, this exercise was undertaken with malafide intention to dislodge the petitioner. This is also evident from the frequent transfer orders passed in his case earlier.

In reply, affidavit of Vijay Kumar Chopra, Chief Engineer, Electrical Wing, Department of Public Works, B&R, Chandigarh has been filed. It has been stated therein that the conduct of the petitioner is not good. On 4.7.2018, a Press Note was appeared in the news paper regarding the presence of official in the Circuit House, Ludhiana in inebriated

condition. He is alleged to have misbehaved with the officials present at the Circuit House. A news item (Annexure R-1) in this regard was published. The Superintending Engineer (South), PWD (B&R), Electrical Circle, Patiala had requested Chief Engineer to take disciplinary action against the official under Punjab Civil Service Rules. A charge-sheet dated 8.2.2019 has been issued to him, wherein following charges have been framed:-

- “(a) Absent from duty without sanction.
- (b) Non-compliance of orders of the Senior Officers.
- (c) No response on Mobile Calls of the Senior Officers regarding the urgent matters.
- (d) During the office time inebriated condition misbehaviour with the Staff of Circuit House, Ludhiana.
- (e) Mis-reporting to the print media against the Government of Punjab.
- (f) Complaints against the Government officials and using of un-official language.”

Another charge-sheet dated 01.06.2018 under Punishment and Appeal Rules is already pending against the petitioner. Enquiry is being conducted by R.C. Nayyar, retired IAS officer. On merits, it has been stated that transfer of the petitioner has been rightly made alongwith other employees in the office of Government works. Broadly a decision was taken for adjustment/transfer of technical staff of Electrical and Mechanical Wings in such a manner as to ensure smooth functioning of both the wings. During the course of hearing, the State counsel also supplied a photo copy of the relevant noting file to the court, wherein proposal to make such transfers was mooted. Apparently, the proposal was made due to objections of A.G. (Audit) regarding wasteful expenditure on establishment of Mechanical Circle. It was, thus, decided to make certain adjustment of

posts in Mechanical and Electrical Wings and to draw pay of Mechanical Wing as per such arrangement, subject to approval of Finance Department.

Noting dated 31.10.2018 signed by Secretary, PWD (B&R) reads as under:-

“The proposal of Chief Engineer (Electrical) may kindly be seen at NP/1-4 ante.

The proposal has been prepared with a view to comply with the observations of A.G. (Audit) regarding wasteful expenditure on establishment of Mechanical Circle. In order to comply with the audit observations, the proposal has been prepared to utilise the Mechanical Circle officials in Electrical Circles/works, which will require shifting of Mechanical posts at location where electrical works are being executed. The proposal has been approved by the Public Works Minister. It is requested that the Department may be allowed to adjust the Mechanical Circle staff with a view to comply with the audit observations while the restructuring of the Department is being submitted, separately, which is likely to take some time for approval, please.”

Aforesaid proposal was approved on 18.12.2018. The relevant part reads as under:-

“Government of Punjab
Department of Finance
(Finance Expenditure-IV Branch)

Sub: Unproductive Expenditure on idle staff- non-adjustment of idle staff of the Mechanical Circle, Patiala, its three Divisions and nine sub-divisions, in other wings of the Department rendered the unproductive expenditure of Rs.30.31 Cr. incurred on salary of such staff and other expenses.

AD may refer to their proposal No.3641, dated 31.10.2018 on the subject cited above.

2. Finance Department concurs with proposal of AD to utilize the services of idle staff of Mechanical Wing for the execution and maintenance of the electrical works.

3. AD's file is returned herewith.

Sd/- Superintendent

To

The Secretary to Govt. of Punjab,
Public Works (B&R). Sd/- 21/12/18

ID No.10/244/2017-2FE4/1376254/1 Dated, Chandigarh 18/12/18”

In view of above, it is evident that transfer of the petitioner has been made in normal course. All the transfer adjustments appear to be a result of integration of Electrical and Mechanical Circles. The State Government is always at liberty to resort to such measures to streamline the functioning of its various wings to curtail unproductive expenditure and utilize services of idle staff. Such measures are required for efficient and effective functioning of the department. Needless to observe that transfer of the petitioner appears to be a part of such exercise undertaken by the Government. Thus, there is nothing to show that there has been any malafide on the part of any official of the Government while directing transfer/adjustment of the petitioner. However, petitioner appears to be a professional litigant as he raises a grouse by way of a writ petition every time he is sought to be transferred. Though right of the petitioner to seek legal redress cannot be doubted, his repeated forays into litigation, even on smallest pretext, shows that he has become habitual litigant and has no qualms in levelling allegations of malafide against his superiors. Now a charge-sheet has also been issued in which charges against him are of remaining absent from duty without leave, non-compliance of orders of senior officers, misbehaviour with the staff of the Circuit House, Ludhiana in inebriated condition, reporting to the Print Media against Government of Punjab, not responding mobile calls made by senior officers regarding

urgent matters, making complaints against government officials and using derogatory language against them.

Keeping in view entire facts and circumstances of the case, no ground for interference in the impugned order passed by the competent authority is made out. Petition is hereby dismissed.

(RAJAN GUPTA)
JUDGE

June 06, 2019
'Rajpal'

Whether speaking / reasoned	Yes / No
Whether Reportable:	Yes / No