

(108) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.11158 of 2016
Date of decision: 29.04.2019

Anita Rathi.

..... Petitioner

Versus

State of Haryana and others.

.... Respondents

BEFORE: HON'BLE MR. JUSTICE B.S. WALIA.

Present: Mr. Sanjay Vashisth, Advocate for the petitioner.
Ms. Shruti Jain Goyal, DAG, Haryana.
Mr. Harman J. Singh, Advocate for respondent No.5.

B.S. WALIA, J. (ORAL)

[1] Prayer in the writ petition is for the issuance of a writ, order or direction especially in the nature of certiorari for quashing/dropping of proceedings under Rule 7 initiated under order Annexure P-2 dated 27.09.2013 or in the alternative for completion of the enquiry proceedings at the earliest. Secondly, for the issuance of a writ in the nature of Mandamus directing the respondent to release the arrears of salary from 21.06.2013 to 31.12.2013 i.e. suspension period along with interest @ 24% per annum at the earliest.

[2] Learned DAG states that the writ petition has become infructuous as the enquiry which was initiated against the petitioner in terms of order Annexure P-2 dated 27.09.2013 has been concluded resulting in passing of order dated 22.05.2017 imposing punishment of stoppage of one annual increment without cumulative effect and that the said order has not been challenged till date.

[3] As regards the second prayer, learned DAG states that the order dated 22.05.2017 itself records that apart from Subsistence Allowance for the period of suspension, the petitioner would not be paid anything else and that in the circumstances, both the prayers of the petitioner have been decided.

[4] Faced with the aforementioned position, learned counsel for the petitioner states that third prayer in the writ petition was for quashing of transfer orders Annexure P-16 dated 07.05.2015/29.05.2015 as also subsequent transfer order Annexure P-19 dated 18.04.2016 passed by respondent No.2 at the instance/influence of respondent Nos.3 and 4. Learned counsel contends that the impugned transfer order Annexure P-19 dated 18.04.2016 was stayed by this Court vide order dated 30.05.2016.

[5] Per contra, learned DAG contends that after the passing of the impugned order Annexure P-19 dated 18.04.2016, approximately three years have elapsed and transfer being an incident of service, order of stay cannot enure for all time to come. Learned Sr. DAG states that in the circumstances, it be clarified that the Competent Authority would be at liberty to pass orders with regard to the transfer of the petitioner, if the circumstances of the case so warrant, in accordance with the transfer policy.

[6] Learned counsel for the petitioner states that the impugned order was passed without disclosure of any reason whatsoever and that in case a fresh transfer order is to be passed then the same be passed by the Competent Authority strictly as per the policy and in accordance with law.

[7] I have considered the submissions of learned counsel for the parties. In view of the position as noted above, the writ petition is disposed of as having become infructuous qua prayer Nos.1 and 2. However, qua

competent authority to pass fresh orders with regard to the transfer of the petitioner as per the policy of the State Government in accordance with law. Till such time that fresh orders are not passed, the petitioner would continue to serve at the present place of posting.

29.04.2019
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(B.S. Walia)
Judge

1. Whether speaking/reasoned : Yes/No.
2. Whether reportable : Yes/No.