

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

(236)

**CWP-14827-2016 (O&M)
Date of decision: January 31, 2019.**

RAJWANT KAUR

.... Petitioner

Versus

STATE OF PUNJAB AND ORS

..... Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. P.K.S. Phoolka, Advocate
for the petitioner.

Ms. Maloo Chahal, DAG Punjab.

Ms. Kavita Arora, Advocate
for respondent No.2.

Mr. Balbir Singh, Advocate
for the respondent No.3.

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JITENDRA CHAUHAN, J (ORAL)

Challenge in the instant petition filed under Articles 226/227 of the Constitution of India is to order dated 13.07.2016 (Annexure P-9), whereby, the petitioner, working as Punjab Mistres, had been transferred from Government High School, Bhaini Mehraj, District Bhatinda to Government Middle School, Golewala, Talwandi Sabo, District Bhatinda, which is at a distance of about 80 kilometers from the place of her residence.

It is contended that the petitioner has been transferred vide order dated 13.07.2016 to a village which is located at a distance of about 80

kms. from her residence at the instant of respondent No.3 who is a politically influential person. The petitioner has been transferred with mala fide intention to settle score for standing by the said of girl students who were harassed by a male teacher who is close associate of respondent No.3. Further, there is no direct bus service to that village from the residence of the petitioner and she is compelled to change three buses to reach her new place of posting. The petitioner apprehends threat to her life and liberty from respondent No.3 who had also come to her school and humiliated her. The petitioner has also moved certain complaints against respondent No.3 but no action has been taken by the authorities.

On the other hand learned State counsel contends that a complaint dated 17.03.2016 (Annexure P-3) was received in the Department against the petitioner on which a preliminary enquiry was conducted after following proper procedure. On the basis of enquiry report, the Director Public Instructions (S.E.) Punjab being competent authority, instead of punishing the petitioner as per Punjab Civil Services (Punishment & Appeal) Rules, took a sympathetic view and transferred the petitioner to another place to create healthy environment and cordial/congenial atmosphere of the school. He refers to Rule 10 of The Punjab Civil Services Rules, 1994, to contend that petitioner being enrolled on the State Cadre is liable to be transferred to any of Government School situated in the State of Punjab.

Learned counsel appearing on behalf of respondent No.2 contends that on receipt of a complaint dated 17.03.2016 (Annexure P-3)

from the parents of students of villagers against the petitioner wherein allegations of harassment with the students were levelled, a preliminary enquiry was conducted and after affording proper opportunity of hearing to the petitioner the impugned order dated 13.07.2016 (Annexure P-9) had been passed.

Heard.

A similar controversy came to be In ***National Hydroelectric Power Corp. Ltd. Vs. Shri Bhagwan (SC), 2001 AIR (SC) 3309***, Hon'ble the Supreme Court has held as under:-

“5. On a careful consideration of the submissions of the learned counsel on either side and the relevant rules to which our attention has been invited to, we are of the view that High Court was not justified in interfering with the impugned order of transfer. It is by now well settled and often reiterated by this Court that no government servant or employee of public undertaking has any legal right to be posted forever at any one particular place since transfer of a particular employee appointed to the class or category of transferable posts from one place to another is not only an incident, but a condition of service, necessary too in public interest and efficiency in the public administration. Unless an order of transfer is shown to be outcome of mala fide exercise of power of stated to be in violation of statutory provisions prohibiting any such transfer, the courts or the tribunals cannot interfere with such orders as a matter of routine as though they are appellate authorities substituting their own decision for that of the management, as against such orders passed in

the interest of administrative exigencies of the service concerned. On the facts and circumstances of the cases before us, we are also unable to agree with the learned counsel for the respondents that Rule 4.1.1 of the Seniority Rules indicates any transfer of the employees from one office or project or until to any one of the other as long as the seniority of such an employee is protected based on the length of service with reference to the date of promotion of appointment to the grade concerned irrespective of the date of transfer. We also consider it to be a mere submission in vain, the one urged on the basis of alleged adverse consequences detrimental to their seniority resulting from such transfer. In the facts of the present cases, at any rate, no such result is bound to occur since the project undertaken to which the respondents have been transferred is itself a new one and, therefore, we see no rhyme or reason in the alleged grievance.”

It is, thus, a well settled proposition of law that a Government employee cannot claim as a matter of right to be posted at a particular station, that too of his/her own choice. It is for the employer to see where the services of an employee can be best utilized. The story put forth by the petitioner that she has been transferred due to ulterior motive and consideration at the instance of respondent No.2, is not supported by any material on record, therefore, cannot be taken as gospel truth.

Considering the fact that a complaint dated 17.03.2016 (Annexure P-3) was made against the petitioner and a proper enquiry was

held against her and taking into consideration the fact that the authority instead of punishing the petitioner had thought it appropriate to transfer her to another place of posting, this Court does not find any reason to interfere in the impugned order dated 13.07.2016 (Annexure P-9).

Dismissed.

(JITENDRA CHAUHAN)
JUDGE

January 31, 2019.
tarun/atulsethi

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No