

Sr. No.125

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

CWP No.17842 of 2019 (O&M)

Date of Decision: 05.07.2019

Sandeep Bharti

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Navjot Singh, Advocate,
for the petitioner.

Ms. Anu Chatrath, Senior Advocate with
Ms. Ambika Bedi, AAG, Punjab.

ARUN MONGA, J.(ORAL)

1. In an earlier round of litigation instituted by the petitioner vide CWP No.10297 of 2019, this Court while disposing of the same passed the following order dated 09.05.2019:-

"Notice of motion.

Petitioner has prayed for a writ in the nature of mandamus to direct the official respondents to transfer the petitioner from the office of Deputy Commissioner, Pathankot to the office of Deputy Commissioner, Jalandhar.

Admittedly, NOC has been issued by both the offices. Petitioner undertakes that he will forego his seniority, in case, he is transferred to the office of Deputy Commissioner, Jalandhar. According to him, he has already given an undertaking to this effect as stated in Para 03 of the petition.

On the asking of the court, Mr. Nikhil Chopra,

Addl.A.G., Punjab, who is present in court, accepts notice on behalf of the State. He submits that representation of the petitioner, Annexure P-1, dated 18.02.2019 is pending, speaking order thereon shall be passed by the competent authority within two weeks.

In view of the above, no further direction is necessary. Petition is hereby disposed of.”

2. A perusal of the above order leaves no manner of doubt that the competent authority was required to pass a speaking order with regard to the representation dated 18.02.2019 of the petitioner to transfer him from the Office of the Deputy Commissioner, Pathankot, to the Office of the Deputy Commissioner, Jalandhar. The said representation was submitted as even after issuance of NOC dated 12.01.2018, the petitioner was not being transferred in terms of the NOC, in accordance with law.
3. As against the said direction vide impugned order dated 25.05.2019 (Annexure P-1), the following order has been passed:-

“I have heard the applicant and have also gone through the relevant material placed on the file. Vide representation dated 18.02.2019, the applicant has requested for issuance of NOC. From the perusal of the record, it reveals that No objection Certificate as Clerk has already been issued to the applicant vide this office letter No.11/EA dated 02.01.2018. After issuance of NOC to the applicant, no further action is required to be taken on the part of this office. Therefore, the representation dated 18.02.2019 (Annexure P-1) filed by the applicant is hereby disposed of with the direction to Officer Incharge, Establishment Branch to supply copy of the NOC issued to the applicant vide letter No.11/EA dated 02.01.2018

along with copy of this speaking order.

With these observations, the representation of the applicant dated 18.02.2019 (Annexure P-1) stands disposed of. A copy of this order be sent to all the concerned for information and necessary action.”

4. The impugned order reveals that the representation dated 18.02.2019 has been dealt only vis a vis issuance of an earlier 'No Objection Certificate' dated 12.01.2018 from the Office of the Deputy Commissioner, Jalandhar.

5. After perusal of the order impugned herein, I am of the view that the same is completely at variance with what was contemplated by this Court vide order dated 09.05.2019 while disposing of the earlier writ petition.

6. In the premise, the order dated 25.05.2019 (Annexure P-1) under challenge herein is set aside with a direction requiring the competent authority to pass speaking order in accordance with law on the petitioner's representation for transfer from Office of the Deputy Commissioner, Pathankot to Office of the Deputy Commissioner, Jalandhar.

7. Let the needful be done within a period of 6 weeks from the date of receipt of a certified copy of this order.

8. Disposed of in above terms.

(ARUN MONGA)
JUDGE

05.07.2019
vandana

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No