

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

**CWP-19822-2013 (O&M)
Date of decision-09.05.2019**

Bhupinder Singh

...Petitioner

Vs.

The State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. B.S. Sidhu, Advocate
for the petitioner(s).

Ms. Maloo Chahal, D.A.G. Punjab.

JITENDRA CHAUHAN, J.

This writ petitions under Articles 226/227 of the Constitution of India have been filed for issuance of a writ in the nature of certiorari quashing the order dated 30.08.2013 (Annexure P-1) passed by respondent whereby petitioner, who is Deputy Collector in the Irrigation Department has been transferred from Mansa Division, I.B., Jawahar Ke to Madhopur Division, UBDC, Gurdaspur.

Learned counsel for the petitioner states that the petitioner while serving as Deputy Collector in Mansa Division, I.B. Jawahar Ke, was transferred to Madhopur Division, Gurdaspur. On of the primary grounds towards assailing such transfer is that the petitioner was due to superannuate on 30.09.2014 and in the light of transfer policy he could not have been dislocated close to his retirement.

The relevant portion of the guidelines dated 30.07.2013 (Annexure P-2) reads as under:-

b) Government employees/officers, who are going to retire during the next two years, be allowed to be posted in the same District or in the same place of posting upto their retirement.

d) As far as possible, at the time of making transfers and postings of physically handicapped and blind employees, their difficulties should be especially taken care of.

Learned counsel for the petitioner further states that the petitioner was suffering from a chronic disease and the petitioner had submitted a representation dated 22.07.2013 that he may be transferred to Bathinda Canal Division against a vacant post or to Abohar Canal Division. Petitioner also submitted a detailed representation dated 02.09.2013 that the impugned order transferring him may be withdrawn and he may be posted near to his residence i.e. Abohar or Bathinda.

On the other hand, learned State counsel states that the transfer of the employee is effected on administrative grounds and the employee cannot claim a particular place of posting as a matter of right. He further states that the transfer is not a punishment under the (Punishment and Appeal) Rules 1970, but is only a routine matter of administration.

This Court had passed the following order on 27.11.2013:-

“C.M. No.16917 of 2013

The petitioner had approached this Court impugning the order dated 30.8.2013 (Annexure P-1) passed by the Principal Secretary, Punjab Govt., Irrigation Department in terms of which while serving as Deputy Collector in Mansa Division, IB., Jawahar Ke, he had been transferred to Madhopur Division, Gurdaspur. One of the primary grounds towards assailing such transfer was that the petitioner was

due to superannuate on 30.9.2014 and as such, in the light of transfer policy he could not have been dislocated close to his retirement.

On 9.9.2013 notice of motion had been issued for 27.11.2013 and the operation of the impugned order of transfer dated 30.8.2013, had been stayed.

Learned counsel appearing for the applicant-petitioner would apprise the Court that vide order dated 22.11.2013 at Annexure A-1 along with the application, the petitioner has been placed under suspension and his headquarters have been fixed in the office of Superintending Engineer, U.B.D.C, Amritsar Circle.

I am prima facie of the view that the order dated 22.11.2013 at Annexure A-1 is contemptuous. A clear attempt has been made by the respondent-authorities to circumvent the interim order dated 9.9.2013, passed by this Court. The mischief being played by the respondent authorities would further be apparent as the order at Annexure A-1 is dated 22.11.2013, even though, endorsed on a prior date i.e. 20.11.2013.

Notice of the C.M. Application, returnable for 20.12.2013.

In the meanwhile, operation of the order of suspension dated 22.11.2013 shall remain stayed.

It is further directed that the author of such order i.e. Sh. Hakam Singh, Deputy Secretary, Govt. of Punjab, Irrigation Department shall remain present in the Court on the adjourned date”.

Vide order dated 26.11.2015, the following order was passed:

“A prima facie view has been expressed by brother Dhindsa, J. on 27.11.2013 in an elaborate order which also directed the author of the order to remain present in Court as his action was viewed as contemptuous and mischievous to remain present in Court. Shri Hakam Singh, Deputy Secretary, Government of Punjab, Irrigation Department is present in Court. He is no longer Deputy Secretary, Irrigation Department but is presently holding the post of Joint

Secretary in Vigilance Department. He has a copy of the order dated 27.11.2013.

Let him show cause as to why contempt proceedings be not initiated against him for flouting the orders of this Court dated 9.9.2013. He may file his personal affidavit explaining the circumstances which led to the passing of the suspension order which bears his signatures. He would also explain the nature of the misconduct charged against the petitioner and whether it relates to the petitioner's quasi judicial/statutory functions under Section 68 of the Northern Canal and Drainage Act, 1873. Let the affidavit be filed within 3 weeks.

List again on 19.1.2016.

Mr.Hakam Singh would remain present in Court on the next date of hearing.”

Vide order dated 04.07.2017, respondent-State was directed to file an additional affidavit of the competent officer explaining therein as to why after withdrawal of suspension order, subsequent order of suspension has been passed, which is contrary to the observations made in order dated 26.11.2015 passed by this Court.

In pursuance to the order dated 04.07.2017, an additional affidavit of Secretary, Department of Irrigation Government of Punjab, Civil Secretariat, Chandigarh was filed, relevant portion of which reads as under:-

9. That it is submitted that the petitioner was placed under suspension by the Government on 16.03.2016 (Annexure A-I) due to new complaints against him. The petitioner was not suspended by the respondent in the same cause of action. The petitioner was suspended on two different dates & on different cause of action. After his suspension second time he was reinstated by the Government on 30.09.2016 subject to pending inquiry and was retired from Service on 30.09.2016.

10. That the deponent has the highest regard for this Hon'ble High Court and its orders. As such, the deponent cannot even think of disobeying the orders of the Hon'ble Court intentionally or otherwise. However, if the Hon'ble Court comes to the conclusion

that the deponent has violated the orders of the Hon'ble Court, the deponent tenders unconditionally and unqualified apology”.

In view of the above and the fact that the petitioner has since retired from the service on 30.09.2016, the present petition is disposed of with a direction to the respondent to be careful in future.

(JITENDRA CHAUHAN)
JUDGE

09.05.2019

ps-I

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