

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

[1] CWP No.14704 of 2018
Date of Decision : 05.12.2019

Surinder KumarPetitioner

v/s

State of Haryana and othersRespondents

[2] CWP No.15519 of 2018

Surinder SinghPetitioner

v/s

State of Haryana and othersRespondents

Coram : Hon'ble Mr. Justice B.S. Walia

Present: Mr. Rohit Chaudhary, Advocate for
Mr. Mayank Aggarwal, Advocate
for the petitioner in CWP-14704-2018.

Mr. Harkesh Manuja, Advocate
for the petitioner in CWP-15519-2018.

Mr. Harish Rathee, Senior DAG, Haryana.

B.S. Walia, J. (Oral)

[1] This order shall decide CWP No.14704 of 2018 and CWP No.15519 of 2018.

[2] Brief facts of the case are that vide Order Annexure (P-1) in CWP No.15519 of 2018, the petitioner was transferred from PHC Bidhlaan, CHC Kharkhoda, Sonapat to CHC Indri, Karnal vice petitioner in CWP No.14704 of 2018, while petitioner in CWP No.14704 of 2018 was transferred from CHC Indri, Karnal to PHC Bidhlaan, CHC Kharkhoda, Sonapat vice the petitioner in CWP No.15519 of 2018.

[3] The petitioner in CWP No.15519 of 2018 filed CWP No.154 of 2017, which was dismissed vide Order dated 24.10.2017 by taking into account the fact that he had remained at Kharkhoda, Sonapat for the past 21 years. Review petition was filed by the petitioner of CWP No.15519 of 2018 in CWP No.154 of 2017, whereupon the Co-ordinate Bench, while taking into account the submissions of learned counsel for the parties of personal difficulties faced by each of the parties disposed of the review application, with a direction to the Director, Health Services, Haryana, Panchkula to take a decision as to why the petitioners in both the instant writ petitions be not posted far away from Sonapat. However, before passing any orders, the competent authority was to go into the personal circumstances of the parties and thereafter pass a speaking order in the case of each of them wherever they were to be posted.

[4] Pursuant thereto, Order (Annexure P-4) was passed, rejecting the claim of the petitioners in both the writ petitions for being allowed to continue at their existing places of posting. The aforementioned order has been challenged by the petitioners in both the writ petitions as Annexure P-1 in CWP No.14704 of 2018 and as Annexure P-4 by the petitioner in CWP No.15519 of 2018.

[5] Learned counsel for the parties state that the impugned order (Annexure P-1) in CWP No.14704 of 2018 and Annexure P-4 in CWP No.15591 of 2018 has been passed without taking into account the personal difficulties of the petitioners of both the writ petitions, therefore, the impugned order be set aside and the Director, Health Services (Malaria), Haryana, Panchkula be directed to pass a fresh order.

[6] Learned counsel contends that the petitioner's mother in CWP No.15519 of 2018 is suffering from acute chronic ailment of mental retardation and is taking regular treatment from Pt. Bhagwat Dayal Sharma, PGIMS Rohtak, while the petitioner is a heart patient and is also taking regular treatment from Advanced Cardiac Care & Research Centre, Holy Heart at Rohtak and that although the Director, Health Services, has taken into account the ailment of the mother of the petitioner but he has not taken into account the ailment of the petitioner, whereas, learned counsel for the petitioner in CWP No.14704 of 2018 contends that the petitioner is suffering from heart ailment, besides his mother is suffering from Osteoarthritis both knees and his children are studying in 10th & 12th, while his brother is a Psychiatric patient.

[7] Learned counsel contends that the aforementioned aspects of the matter not having been taken into account, the impugned orders are liable to be set aside and the Director, Health Services (Malaria), Haryana, Panchkula be directed to consider and decide the claim of the petitioners afresh.

[8] Learned Senior Deputy Advocate General, Haryana, states that the decision was taken by the Director, Health Services (Malaria), Haryana, Panchkula, on the basis of material produced before him but in case, certain other material is available with the petitioners, they may produce the same before the Director, Health Services (Malaria), Haryana, Panchkula, who would take a fresh decision in respect thereto within such time, as is granted by this Court.

[9] Without commenting upon the merits of the claim of the petitioners or their entitlement to the relief claimed, especially in view of their long stay at the place of posting, from where they were transferred, the writ

other medical record, as is available with them with regard to their/their relatives' ailments, as also of their children, studying in Class 10 & 12 for a fresh decision by the Director, Health Service (Malaria), Haryana, Panchkula, in accordance with law, not later than 03 months from the date of receipt of certified copy of this order.

[10] Needless to mention, nothing said in this order shall be taken as an expression on the merits of the claim and the Director, Health Services (Malaria), Haryana, Panchkula, shall take a decision on the basis of material produced by the petitioners. Till such time, that decision is taken, the petitioners be continued at their present place of posting. Further action in the matter i.e. continuance at the present place of posting or transfer elsewhere would be subject to the decision taken by the Director, Health Services (Malaria), Haryana, Panchkula.

(B.S. Walia)
Judge

December 05, 2019
'Rajneesh'

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No