

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

Date of Decision :29.04.2019

(1) CWP No.21637 of 2017

Rajesh Kumar and others	Versus	Petitioners
State of Haryana and others		...Respondents

(2) CWP No.23091 of 2017(O&M)

Dharam Kumar	Versus	Petitioner
State of Haryana and others		...Respondents

(3) CWP No.23092 of 2017

Rajender Singh	Versus	Petitioner
State of Haryana and others		...Respondents

(4) CWP No.23171 of 2017

Prem Singh (D-97)	Versus	Petitioner
State of Haryana and others		...Respondents

(5) CWP No.23205 of 2017

Dinesh Singh (C-No.99)	Versus	Petitioner
State of Haryana and others		...Respondents

(6) CWP No.23445 of 2017

Manjeet		Petitioner
	Versus	
State of Haryana and others		...Respondents

(7) CWP No.23615 of 2017

Karamveer Singh		Petitioner
	Versus	
State of Haryana and others		...Respondents

(8) CWP No.23690 of 2017(O&M)

Satyawan		Petitioner
	Versus	
State of Haryana and others		...Respondents

(9) CWP No.23748 of 2017

Subhash Chander		Petitioner
	Versus	
State of Haryana and others		...Respondents

(10) CWP No.23806 of 2017

Sunil Kumar		Petitioner
	Versus	
State of Haryana and others		...Respondents

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

Present: Mr.Jagjeet Beniwal, Advocate for the petitioner(s) in CWP Nos.23091, 23092, 23615, 23690, 23748 & 23806 of 2017.
Mr. Jai Bhagwan Sharma, Advocate in CWP No.23445 of 2017.

Ms. Shruti Jain Goyal, DAG, Haryana.

B.S. WALIA, JUDGE (ORAL)

1. This order shall decide CWP Nos.21637, 23091, 23092, 23171, 23205, 23445, 23615, 23690, 23748, 23806 of 2017 as common questions of fact and law are involved. For brevity, the facts of the case are being taken from CWP No.21637 of 2017.
2. Petitioners herein sought the issuance of a writ of Certiorari for setting aside impugned transfer/relieving orders dated 16.6.2017, 23.6.2017, **16.6.2017**, 4.7.2017 and 13.6.2017 passed by respondent No.3 i.e. Annexures P-2, P-4, P-6 , P-8 and P-10 respectively, allegedly in violation of the transfer policy as well as the conditions mentioned in the transfer orders with a prayer for stay of operation of the impugned orders.
3. Learned Deputy Advocate General states that in fact the orders impugned in the writ petitions were passed pursuant to decision of this Court in CWP No.17899 of 2017 dated 01.09.2017.
4. Learned Deputy Advocate General states that during the pendency of the petitions before this Court, the State Transport Department has come out with a State Transport Haryana Employees Transfer Policy 2018 providing for options to be given by the employees to the Transport Department to seek transfer to a particular station with option for giving preference for 10 stations. Transfer as per option is to be carried out as per the criteria stipulated in the transfer policy and that in case the petitioners are interested they can give their options for transfer as per the transfer policy as referred to above.
5. It is settled law that it is not open to a Government Servant to insist upon being allowed to continue at a particular place or position as long as he desires as transfer of an employee is not only an incident inherent in the terms of appointment but also implicit as an essential condition of service in the

absence of any specific indication to the contrary in the law governing or conditions of service. As per decision of Hon'ble the Supreme Court in the case of **State of U.P and others versus Gobardhan Lal 2004 (2) SCT 368** order of transfer can be challenged only if it is shown to be an outcome of a mala fide exercise of power or violative of any statutory provisions (an Act or Rule) or passed by an Authority not competent to do so. It has further been held that an order of transfer cannot lightly be interfered with as a matter of course or routine for any or every type of grievance sought to be made. Even administrative guidelines for regulating transfers or containing transfer policies at best may afford an opportunity to the officer or servant concerned to approach the higher authorities for redress but cannot have the consequence of depriving or denying the competent authority to transfer a particular officer/servant to any place in public interest and as is found necessitated by exigencies of service as long as the official status is not affected adversely and there is no infraction of any career prospects such as seniority, scale of pay and secured emoluments. Hon'ble the Supreme Court was further pleased to hold that order of transfer made even in transgression of administrative guidelines cannot be interfered with as guidelines do not confer any legally enforceable rights, unless as noticed earlier, the order is shown to be vitiated by mala fides or is made in violation of any statutory provision. Hon'ble the Supreme Court was further pleased to hold that challenge to an order of transfer should normally be eschewed and should not be countenanced by the Courts or Tribunals and at best the remedy available to a person aggrieved would be by making a representation before the authorities concerned for redress of the grievance.

6. In view of transfer policy having been framed by the Transport Department in the State of Haryana, the writ petitions are disposed of by granting liberty to the petitioners to give representation / options in terms of the policy in case they wish to seek transfer to a particular station and in the eventuality of the petitioners filing a representation/giving an option for transfer in accordance with the transfer policy framed by the Transport Department, appropriate decision in respect thereto be taken in accordance with law.

7. All the aforementioned writ petitions are disposed of in above terms.

April 29, 2019
ps

(B.S. WALIA)
JUDGE

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