

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CWP No.25964 of 2019 (O&M)

Date of Decision.27.09.2019

Vikas Rathore and another

...Petitioners

Vs

The State of Haryana and others

...Respondents

Present: Mr. Shalender Mohan, Advocate
for the petitioner.

Mr. Hitesh Pandit, Addl. A.G., Haryana.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J. (ORAL)

C.M. No.14962 of 2019

Application is allowed.

Reply to the application for vacation of stay along with
Annexures P-4 to P-10 is taken on record.

C.M. No.14367 of 2019

Prayer in the application is for preponing the date of hearing.

Both parties are *ad idem* that instead of pondering upon the
application for vacation of stay, main writ petition itself may be heard.

With consent of both parties, application is allowed. Hearing
of writ petition is postponed for today itself.

CWP No.25964 of 2019

The short point involved in this case is that petitioners who
have been working as Assistant Engineer and Plant Attendant-II in Rajiv
Gandhi Thermal Power Plant, Khedar Barwala have been ordered to be
transferred vide transfer order dated 11.09.2019.

Mr. Shalender Mohan, learned counsel appearing on behalf of

petitioners submitted that petitioner No.1 is General Secretary of Haryana Power Generation Engineers Association and petitioner No.2 is the President of SC and BC Workers Union and have been raising voice in respect of employees against the irregularities and grievance, resulting into some tiff with the superior officers. An incident of theft of data from the computer at the instance of one of the XEN came to notice of the petitioners, which was accordingly highlighted to the senior officers on email dated 03.09.2019 (Annexure P-1). They have been working upto the satisfaction of the higher authorities but for the reasons best known to respondents, have been transferred, which is not in consonance with the transfer policy applicable to the employees.

The State has filed application for vacation of stay that transfers have been done in accordance with the policy on receipt of complaint dated 09.09.2019 of the villagers and now by its own employees. There has been instance on 26.09.2019 also.

Aforementioned arguments of Mr. Hitesh Pandit, Addl. A.G., Haryana have been rebutted by Mr. Shalender Mohan on the premise that complaint of villagers is totally frivolous. He has been able to obtain a note on 26.09.2019 from villagers, handed over to the Court that they have no grievance against petitioners. Even otherwise, there is no interference in the parameters of the aforementioned plant, thus, there cannot be any grievance from the villagers. The impugned order is punitive and therefore, not sustainable in the eyes of law.

I have heard learned counsel for the parties, appraised the paper book and of the view that there is no force and merit in the submissions of Mr. Shalender Mohan. Sub-clause (o) of Clause E of notification dated

02.07.2015 envisage provisions of transfer by Managing Director on administrative grounds or on complaint or involving relaxation of the policy/guidelines, the same reads as under:-

“o) Any case for transfer of an officer on administrative grounds or on complaint or involving relaxation of the above policy/guidelines will be considered by Managing Director of the Nigam.”

There is no such provision in the policy that a person having rendered a particular period of transfer cannot be transferred except with embargo if he or she is retiring within a period of one year. I need not go into disputed question of fact with regard to allegation and cross-allegation, however, for the purpose of administrative exigency, particularly, petitioners being General Secretary and President of certain associations being transferred to WYC Hydel, Yamuna Nagar cannot be outcome of any punitive action. No ground for interference is made out.

Writ petition is dismissed. Interim stay granted by this Court is vacated.

(AMIT RAWAL)
JUDGE

September 27, 2019

Pankaj*

Whether speaking/reasoned Yes

Whether reportable No