

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

CWP No.3332 of 2019

Date of Decision : 15.01.2020

Parveen Kumar

....Petitioner

Versus

State of Punjab and others

...Respondents

CORAM : HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA

...

Present: Mr.H.C.Arora, Advocate
for the petitioner.

Mr. T.P.S.Chawla, DAG, Punjab.

Mr.G.S.Brar, Advocate
for respondent No.3.

Mr. Neeraj Sharma, Advocate
for respondent No.4.

...

TEJINDER SINGH DHINDSA, J.(ORAL)

Petitioner is serving on the post of Clerk under the Department of Local Government, State of Punjab. On 14.08.2018 petitioner was transferred from Town Improvement Trust, Ludhiana to Town Improvement Trust, Fazilka against a vacant post. Having represented against such transfer, vide order dated 23.01.2019 (Annexure P-2) petitioner was posted back to Town Improvement Trust, Ludhiana.

Instant petition is directed against the order dated 31.01.2019 (Annexure P-4) and whereby the previous order dated 23.01.2019 has been cancelled.

Notice of motion was issued in the instant petition on 06.02.2019 and interim directions were issued that status quo as regards place of posting of the petitioner as it existed on that date shall be maintained.

A joint reply on behalf of respondents No.1 and 2 has been filed and placed on record. Even though respondents No.3 and 4 are represented through respective counsel but no reply on their behalf has been filed.

Writ petition is taken up for final disposal today itself with consent of the counsel for the parties.

Learned State counsel would submit that the impugned order cancelling the order dated 23.01.2019 whereby petitioner had been posted back to Town Improvement Trust, Ludhiana was passed in view of the administrative exigencies of service as there was shortage of staff at Fazilka. It is urged that under such circumstances this Court in exercise of its extra-ordinary writ jurisdiction ought not to interfere.

Having heard counsel for the parties, this Court is of the considered view that the impugned order dated 31.01.2019 (Annexure P-4) in so far as the same relates to the petitioner herein cannot sustain. Perusal of the order dated 31.01.2019 (Annexure P-4) would reveal that the earlier order dated 23.01.2019 issued by the department has been cancelled on the premise that the petitioner was still under transfer to Town Improvement Trust, Ludhiana. This, however, was not the correct factual position. Counsel representing

the third respondent has apprised the Court that pursuant to the order dated 23.01.2019 having been passed, petitioner was duly relieved from the post of Clerk at Town Improvement Trust, Fazilka. Counsel representing the fourth respondent has clarified that petitioner joined at Town Improvement Trust, Ludhiana on 24.01.2019 (afternoon) towards implementation of the order dated 23.01.2019. Clearly, the basis of passing of the impugned order dated 31.01.2019 (Annexure P-4) qua the petitioner as such was erroneous.

For the reasons recorded above, petition is allowed. Action of respondents No.1 and 2 in having cancelled the previous order dated 23.01.2019 vide impugned order dated 31.01.2019 (Annexure P-4) is held to be bad in law. As a direct consequence, petitioner's present place of posting would be seen as Town Improvement Trust, Ludhiana.

It is, however, made clear that it would be open for the respondent authorities to pass fresh orders of transfer, if so advised and in accordance with law.

15.01.2020
dss

(TEJINDER SINGH DHINDSA)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No