IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No.7430 of 2020 (O&M)
Date of Decision:22.05.2020

Rajendra Singh

.......Petitioner

versus

State of Haryana and others

......Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Ms. Shweta Sanghi, Advocate for the petitioner.

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TEJINDER SINGH DHINDSA J.(Oral)

This case has been taken up through Video Conferencing via WhatsApp facility in the light of Pandemic Covid-19 situation and as per instructions.

Challenge in the instant petition is to the order dated 07.05.2020 issued by the Excise and Taxation Commissioner, Haryana, whereby petitioner while serving on the post of Taxation Inspector, has been transferred from Panchkula to Nuh.

Counsel for the petitioner has vehemently argued that the date of superannuation of the petitioner is 30.06.2021 and as such a transfer order close to retirement cannot sustain. In furtherance of such submission counsel has also adverted to a transfer policy at Annexure P-2 dated 07.04.1989 and contends that the transfer is in violation of the terms and conditions of the transfer policy.

Since an advance copy of the petition had already been served, Mr. Aman Bahri, learned Additional Advocate General, Haryana has joined proceedings.

Counsel for the parties have been heard at length and averments made in the petition have been perused.

It is by now well settled that the transfer is an incidence of service. Orders of transfer are open to interference if such orders have been passed in *mala fide* exercise of power, in violation of any statutory provision or have been issued by an authority not having the jurisdiction to direct transfer.

In the present case learned State counsel has apprised the Court that petitioner has served at Panchkula since 15.01.2015 i.e. for a period in excess of 5 years prior to issuance of the impugned transfer order. Learned counsel for the petitioner also does not controvert that even in the transfer policy upon which she places reliance a normal tenure of posting as three years is envisaged.

Even otherwise, it is by now well settled that terms and conditions contained in a transfer policy do not vest an enforceable right in an employee.

It is not that the petitioner is on the verge of retirement and he has been transferred. He still has a tenure of service of more than one year.

At this stage, counsel would interject to contend that there were no compelling circumstances to direct transfer of the petitioner and as such the clear inference is that the transfer of the petitioner from Panchkula to Nuh is *mala fide*. Even such submission is being noticed only to be rejected. There would be no obligation upon the employer to record reasons for effecting transfer. Under normal circumstances it would be rather interfered that transfer has been directed in the administrative exigency of service. There are no specific pleadings in the petition alleging *mala fides* against any senior official of the respondent department or against the transferring authority. Under such circumstances *mala fide* cannot be inferred.

For the reasons recorded above, no interference in the matter is warranted.

Petition dismissed

(TEJINDER SINGH DHINDSA)
JUDGE

May 22, 2020
shweta

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