

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

CWP No.12200 of 2020 (O&M)

Date of Decision: 05.10.2020

(Heard through VC)

Mukesh Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Parminder Singh, Advocate
for the petitioner.

Mr. S.S. Pannu, DAG, Haryana.

JAISHREE THAKUR, J. (ORAL)

1. The petitioner by the instant writ petition filed under Article 226 of The Constitution of India seeks a writ in the nature of certiorari for quashing of transfer order dated 14/08/2020, whereby petitioner has been transferred from Government Senior Secondary School, Model Town Karnal to Government Senior Secondary School, Teekri.

2. In brief the facts of the case as alleged are that the petitioner is working as a Clerk at Government High School Model Town Karnal, whereas the wife of the petitioner is a guest teacher in Government Primary School, Sector 14, Karnal. The petitioner has a daughter who is mentally retarded and becomes quite violent, and therefore needs constant attention. The petitioner is getting his daughter treated at Kalpana Chawla Medical Hospital Karnal, and therefore considering his case he had been allowed to continue to work in Government Senior Secondary School Model Town Karnal. It is contended that the transfer will cause him great hardship as he will not be able to effectively look after his daughter. It is also argued that the Government of Haryana has framed a

transfer policy and in response thereto the petitioner had filled in several options to be transferred at a nearby place, which option has not been taken into consideration. It is submitted that as per the policy, the case of the employees who have children suffering from medical ailments/permanent disability have to be considered which has not been done in the instant case. It is argued that there is no bus service attached to Government Senior Secondary School Teekri and the school is situated at a distance from his house, whereas the school at Model Town is close to his place of residence and the hospital where his daughter is undergoing treatment.

3. Mr. Parminder Singh learned counsel appearing on behalf of the petitioner contends that the petitioner should be posted at a place within the town of Karnal on account of the fact that he has a mentally challenged daughter, who needs to be looked after.

4. Mr. S.S.Pannu, DAG, Haryana has shared through the WhatsApp group the consideration of the case of the petitioner. The fact that he had a mentally challenged child had been taken into consideration while transferring him to Teekri. It is also submitted that the place where the petitioner has been posted is 7-8 kms away from where he was posted and therefore no hardship will be caused to the petitioner. It is also submitted that the petitioner has continuously worked at the same place for about 6 years.

5. I have heard the counsel for the parties and find no ground for any interference in this writ petition.

6. The petitioner is in service as Clerk with the Department of Education and has been transferred to Government Senior Secondary School Teekri, Karnal from Government Senior Secondary School Model Town Karnal, where he has continued to work for almost six years. It is well settled that transfer is

an incidence of service and would be open to interference by the court only if the petitioner could establish that the transfer order is *mala fide* in nature. An employee does not get a vested right to continue on a particular post as per his choice. At best an employee can ask for consideration regarding his posting in order to mitigate the hardship he might have to face on account of his/her transfer.

7. In the instant case the medical condition of his daughter was taken into consideration while posting him at Government Senior Secondary School, Teekri Karnal. The current place of posting is only at a distance of 7 to 8 km from where the petitioner was posted. The petitioner has not pleaded nor alleged mala fides against any senior official of the respondent department or against the transferring authority. The petitioner has already worked at Government Senior Secondary School Model Town Karnal for a considerable length of time and has been transferred to a nearby place in accordance with the transfer policy.

8. Consequently this petition is dismissed being devoid of merit. However, while dismissing the writ petition, it is made clear that in case there is a vacancy in a Government School closer than Government Senior Secondary School Teekri Karnal, the petitioner may represent to the respondent Department who will consider the request in accordance with law.

(JAISHREE THAKUR)
JUDGE

October 05, 2020
Pankaj*

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