

In the High Court of Punjab and Haryana, at Chandigarh

Civil Writ Petition No. 12792 of 2020

Date of Decision: 26.08.2020

Ravinder Kumar

... Petitioner(s)

Versus

State of Haryana and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Naveen Kumar Advocate
for the petitioner.

Anil Kshetarpal, J.

The petitioner, who is working as a Statistical Investigator, has been transferred from the Civil Hospital, Rohtak to the office of the Civil Surgeon, Ambala, on 14.08.2020, the correctness whereof, is being assailed in the present writ petition. He claims that he was promoted as Statistical Investigator vide order dated 28.02.2019 and posted in the Civil Hospital, Rohtak. He claims that since two years have not elapsed from the date of the above-mentioned order, therefore, his transfer is in violation of the policy instructions (Annexure P1), issued on 06.10.2004.

At the outset, it must be noticed that the writ petitioner was appointed on a transferable post. He does not assert that the order of transfer has been passed on account of malafide. It is alleged that the transfer order is in violation of the policy instructions.

This Court, after examining various judgments passed by the

Supreme Court, have held that such policy instructions issued by the government is for the purpose of regulating the transfers and for the guidance of the officers who are required to pass such orders of transfer of employees. However, such policy does not confer any right in a transferred employee to challenge the same alleging violation thereof. Reference in this regard can be made to ***Chief General Manager (Telecom) N.E. Telecom Circle and Another v. Shri Rajendra CH. Bhattacharjee and Others (1995) 2 SCC 532***. In ***State of U.P. and Others v. Gobardhan Lal (2004) 11 SCC 402***, the Supreme Court while setting aside the judgment passed by the High Court, observed as under:-

“7. It is too late in the day for any Government Servant to contend that once appointed or posted in a particular place or position, he should continue in such place or position as long as he desires. 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 contra, in the law governing or conditions of service. Unless the order of transfer is shown to be an outcome of a mala fide exercise of power or violative of any statutory provision (an Act or Rule) or passed by an authority not competent to do so, 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 their 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. This Court has often reiterated that the order of transfer made even in transgression of administrative guidelines cannot also be interfered with, as they do not confer any legally enforceable rights, unless, as noticed supra, shown to be vitiated by mala fides or is made in violation of any statutory provision.

8. *A challenge to an order of transfer should normally be eschewed and should not be countenanced by the Courts or Tribunals as though they are Appellate Authorities over such orders, which could assess the niceties of the administrative needs and requirements of the situation concerned. This is for the reason that Courts or Tribunals cannot substitute their own decisions in the matter of transfer for that of competent authorities of the State and even allegations of mala fides when made must be such as to inspire confidence in the Court or are based on*

concrete materials and ought not to be entertained on the mere making of it or on consideration borne out of conjectures or surmises and except for strong and convincing reasons, no interference could ordinarily be made with an order of transfer”.

Keeping in view the aforesaid facts, there is no ground to interfere. Hence, the present petition is dismissed.

(Anil Kshetarpal)
Judge

August 26, 2020
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No