

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision: 06.03.2020

1. CWP-14037-2019

Sanjeev Bagga and others

...Petitioner(s)

V/s.

State of Haryana and others

...Respondent(s)

AND

2. CWP-13420-2019

Mohan Lal and others

...Petitioner(s)

V/s.

State of Haryana and others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE RITU BAHRI.

Present: Mr. J.S.Maani, Advocate
for the petitioners.

None for the petitioners in
CWP-13420-2019.

Mr. Harish Nain, AAG, Haryana.

RITU BAHRI, J. (Oral).

This order shall dispose of two writ petitions bearing No. CWP-13420-2019 and CWP-14037-2019 having identical issue. However, the facts are being extracted from CWP-14037-2019.

The petitioners are seeking quashing of orders dated 24.09.2018 (Annexure P-2) and 30.04.2019 (Annexure P-3) whereby they were transferred by way of deputation to the Municipal Corporation, Yamunanagar-respondent No.4.

The brief facts of the case are that petitioners joined the respondent Department of Public Health Engineering from the different

dates w.e.f. 1987 onwards and they are working on regular basis on the posts of Pump Operator, Pump Attendant, Fitter, Fitter Coolie, Chargeman, Electrician, Chowkidar, Mali-cum-Chowkidar etc. respectively. As per rule 2.9 of the Punjab Civil Services Rules volume I chapter-2 and Rule 3.17 of Punjab Civil Services Rules Volume I Part 1, Chapter-3 applicable to the Haryana State, a Government employee shall not be transferred substantively to any other post without his request.

The short issue for consideration in the present writ petition is that whether the petitioners who are working in the Haryana Public Health Engineering Department can be sent on transfer/deputation to the Municipal Corporation, Yamuna Nagar-respondent No.4.

The service conditions of the petitioners are governed by notification dated 25.09.2009 of the Haryana Public Health Engineering Department, Circle Cadre Mechanical Establishment (Group C) Service Rules (Annexure P-1). The grievance of the petitioners is that they have been transferred by way of deputation without their consent and even without granting them deputation allowance vide order dated 30.04.2019 (Annexure P-3) which is against the Division Bench judgment passed in ***K.C. Agnihotri V/s. State of Punjab*** 1996(3) RSJ page 850 (Annexure P-5) where it has been held that transfer of the petitioners outside the cadre in different Department without their consent is patently illegal, arbitrary and against the principle of natural justice.

On notice of this petition, written statement on behalf of respondents No. 1 to 3 has been filed. The stand taken by the respondents in the preliminary submissions is that as per Rule 108(1) of Haryana Civil Services Rules 2016, a Government employee may in public interest, be

transferred by the appointing authority or Head of Department, to a foreign service or on deputation to any Organization/Department under the control of Haryana Government including Chandigarh Administration and Bhakra Beas Management Board and as per Section 137(1) the transfer or deputation in an Organization/Department under Haryana Government can be for a period upto three years at a time. In para 5 of the preliminary submissions, it is further stated that Government has decided to grant deputation allowance to Government employees who have been transferred to the Local Body Department.

Keeping in view the above stand, no direction is required to be passed. Writ petitions are disposed of.

06.03.2020
Divyanshi

(RITU BAHRI)
JUDGE

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