

CWP-13540-2020

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

**CWP-13540-2020
Date of Decision: 04.09.2020**

RAJINDER SINGH

....Petitioner

Versus

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: Hon'ble Mr.Justice Deepak Sibal

Present: Mr. Sunil Kumar Nehra, Advocate for the petitioner
Mr.Deepak Manchanda, Addl.A.G. Haryana

Deepak Sibal, J. (Oral)

Case taken up through Video Conferencing.

The present petition has been filed to challenge therein transfer order dated 24.08.2020 through which the petitioner, who is serving as a Multipurpose Health Supervisor (Male), has been transferred from Rohtak to Faridabad.

The only ground raised in the present petition and pressed before this Court to impugn the aforesaid transfer order is that on 13.03.2020 the petitioner was transferred within Rohtak District and only 3½ months thereafter he has been transferred to Faridabad which is against the transfer policy of the State which inter-alia provides that the minimum period for continuously serving on a post shall normally be three years.

A perusal of the earlier transfer order dated 13.03.2020 reveals that the same was a mutual transfer. Thus, it was at the request of and

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with the consent of the petitioner. Therefore, it does not lie in the mouth of the petitioner to say that it is the State which has again transferred him after about 3 ½ months.

Reliance of learned counsel for the petitioner on the transfer policy of the State is also misconceived as it provides that 'normally' the minimum period for continuously serving on a post shall be three years. There is no mandate.

Even otherwise in the absence of the impugned transfer order being the result of malafides on the part of the State; in violation of any Statutory Rules; having been passed by an authority not competent to do so and adversely affecting the petitioner's status or any of his career prospects cannot be interfered with. In this regard the following observations of the Supreme Court in **State of U.P. v. Gobardhan Lal AIR 2004 SC 2165** can be usefully referred to:-

"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

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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.”

In view of the above the present petition merits dismissal and it is so ordered.

No costs.

04.09.2020

gk

(Deepak Sibal)
Judge

Whether speaking/ reasoned: Yes/No
Whether Reportable: Yes/No