

CWP-13526 of 2020 (O&M)

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

CWP-13526 of 2020 (O&M)

Date of decision: 09.09.2020

Ami Chand

.....Petitioner

vs.

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present:- Mr. Gaurav Gupta, Advocate, for the petitioner.
Mr. Deepak Manchanda, Addl. A.G., Haryana.

DEEPAK SIBAL, J. (ORAL)

Case taken up through video conferencing.

Through the present petition the petitioner seek quashing of transfer order/list dated 17th August, 2020 and all subsequent proceedings arising therefrom.

The facts in brief which are required to be noticed for adjudicating upon the present petition are that petitioner joined the respondent-department in the year 2002 on the post of Driver and was presently posted at Faridabad Depot. As per the impugned transfer list dated 17th August, 2020, he was transferred from Faridabad to Ambala Depot.

The grievance raised in the present petition is that the impugned transfer order is in violation of Sub Clause (ii) (a) of Clause 4 of the State Transport Haryana Employees Transfer Policy 2018 (for short the 'transfer policy') which provides that the transfer orders are to be issued only in the month of April each year. Reliance is also placed on Clause 5 of the transfer policy, which

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provides for stay of 5 years in a particular depot after which an employee can be transferred preferably as per his/her choice.

Mr. Deepak Manchanda, Addl. Advocate General, Haryana has produced amendment dated 07th August, 2020 to the aforesaid transfer policy as per which the transfer process is to be completed by 31st August, 2020 except in cases where the dates are specified in the annexures.

Clause 8, sub-clause (xiv) of the transfer policy provides a remedy to the petitioner to raise his grievance against the transfer process. The same reads as under:-

8. Procedure to be adopted.

“(xiv) Within 15 days of issuance of orders, the employees aggrieved with the transfer process can represent to the department after joining at new place of posting, on a grievance redressal forum to be provided by the department in this behalf. Their representation will be considered in accordance with the policy and appropriate decision will be conveyed to them as deemed fit.”

As per the above clause, an employee, after joining at the new place of posting, can raise a grievance against the transfer process. The representation so made is to be decided in accordance with the policy and the decision made thereupon is to be conveyed to such employee.

The petitioner has not availed of the remedy available to him under the afore-quoted clause 8 sub-clause (xiv) of the transfer policy.

A Division Bench of this Court in LPA No. 247 of 2020, decided on 24th February, 2020 - Nisha vs. State of Haryana, has upheld the order passed by a learned Single Judge of this Court whereby liberty was granted to the petitioner therein to pursue the afore-referred remedy.

Learned counsel for the petitioner submits that only three days time was given in the transfer orders to make the representation, hence, the

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representation could not be made. The submission is liable to be rejected because if the petitioner could have approached this Court he could have very well availed of that remedy.

In view of the above, the present petition is disposed of with liberty to the petitioner to avail of the remedy as provided under sub-clause (xiv) of clause 8 of the transfer policy.

It is further directed that in case the above representation is made by the petitioner the same would be decided expeditiously.

September 09, 2020
R.S.

(Deepak Sibal)
Judge

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No