

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

LPA No.602 of 2020 (O & M)

Date of Decision: September 22, 2020

Surender Singh

..... APPELLANT

VERSUS

State of Haryana & others

..... RESPONDENT(S)

...

CORAM: **HON'BLE MR. JUSTICE JASWANT SINGH**
 HON'BLE MR. JUSTICE SANT PARKASH

...

PRESENT: - Mr. Lalit Pardhan, Advocate, with Mr. Lajpat Sharma,
Advocate, for the appellant.

Mr. R.K. Doon, Advocate, for respondent Nos.2 and 3.

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Sant Parkash, J

The aforesaid presence is being recorded through video conferencing since the proceedings are being conducted in virtual court.

The present appeal has been filed by the appellant against judgment dated 08.09.2020 passed by the Hon'ble Single Bench in **CWP No.11520 of 2020**, vide which stay order dated 10.08.2020 has been vacated.

The appellant is an employee of Haryana State Co-operative Supply & Marketing Federation Limited (HAFED). Appellant was appointed on 31.10.2008 on the post of Field Inspector. The appellant was

promoted to the post of Manager in the month of January 2014. He was transferred from Bhiwani to office of Managing Director, Haryana State Co-operative Supply & Marketing Federation Limited, Sector – 5, Panchkula on 10.01.2019, where he joined his duties on 15.01.2019.

As per transfer policy dated 06.10.2004, guidelines were issued for transfers of Class – III and IV Government employees during the year 2004-05. As per Clause (i) of the said policy, an employee cannot be transferred from his current place of posting before the completion of two years. In violation of the aforesaid policy, respondent No.3 vide order dated 24/27.07.2020, the appellant was again transferred from Panchkula to CMS Kalanwali (Sirsa). He moved a representation dated 28.07.2020 but no action was taken on the same. Accordingly, he preferred **CWP No.11520 of 2020**, wherein while issuing notice of motion, this Court, vide order dated 10.08.2020 ordered that operation of order dated 24.07.2020 shall be kept in abeyance.

In response to notice of motion, respondent Nos.2 and 3 filed reply contending that they have their own bye-laws and the transfer policy relied upon by the appellant was not applicable to the employees of HAFED. It was also stated that respondent No.2 – HAFED is a society duly registered under the Haryana State Co-operative Societies Act, 1984 and it raises its own funds as per Clause 16 of its bye-laws.

No replication could be filed by the appellant before the Hon'ble Single Bench controverting the averments made in the written statement. Consequently, order dated 10.08.2020, whereby the appellant was granted interim relief by this Court, has been vacated vide impugned order dated 08.09.2020, which has been challenged in this appeal.

Learned counsel for the appellant has contended that HAFED works under the control of State Government. The respondents have failed to establish that HAFED is an independent body and have no concern or connection with the Government of Haryana. Further, as per Clause 16(3) of The Haryana State Supply & Marketing Co-operative Service (Common Cadre) Rules, 1988, ACP/grant of increment or other financial benefits of the employees shall be given as per the State Government instructions/rules/policies. As such, transfer policy dated 06.10.2004 is *ipso facto* applicable to the employees of HAFED, in violation of which, transfer of the appellant before completion of two years at the present place of posting is illegal and arbitrary.

Learned counsel for respondent Nos.2 and 3 has opposed the prayer made in the appeal and contended that there is no error or illegality in the impugned order, which has been passed after considering each and every aspect of the case.

We have heard learned counsel for the parties and with their kind assistance, gone through the record.

It is pertinent to mention here that Hon'ble Single Bench, before passing the impugned order, posed a specific query to the appellant as to how policy of 2004-05 being relied upon by him, was applicable to the employees of HAFED, to which, counsel for the petitioner was unable to explain/answer, except certain documents which were sent to the VC Coordinator by e-mail, but these documents were not part of the petition. Accordingly, appellant failed to substantiate the said documents which have rightly not been taken into consideration.

Admittedly, respondent No.2 is a Society registered under the provisions of Haryana Co-operative Societies Act, 1984, which is governed by its own rules and regulations. As such, it being an independent society, transfer policy dated 06.10.2004 as not applicable to the employees of HAFED. Moreover, as per the terms of appointment letter of the appellant, he being Field Officer, was liable to serve the management at any place associated with the work. Further, his appointment letter clearly depicts that his services will be governed by the provisions of Haryana State Co-operative Supply & Marketing Service (Common Cadre) Rules, 1988. Even counsel for the appellant could not explain as to how the aforesaid transfer policy was applicable to the employees of HAFED or that the said policy was ever adopted by the Society.

In the light of aforesaid discussion, we do not find any merit in the instant appeal and the same is dismissed.

(Jaswant Singh)
Judge

(Sant Parkash)
Judge

September 22, 2020
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Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No