

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

CWP No.16361 of 2020 (O&M)
Date of decision: 03.11.2020

Daljeet Singh

...Petitioner

Versus

State of Punjab and ors.

...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Saurabh Arora, Advocate
for the petitioner.

Ms. Maloo Chahal, DAG, Punjab.

REKHA MITTAL, J. (Oral)

By invoking Articles 226/227 of the Constitution of India, the petitioner has sought quashing of order dated 24.09.2020 (Annexure P6) to the limited extent that he has been transferred/posted in District Tarn Taran from District Patiala, in violation of transfer policy (Annexure P7) and order dated 12.09.2020 (Annexure P8).

Counsel for the petitioner would argue that petitioner was appointed as an ETT teacher on 15.10.1998. He was promoted to the post of Hindi Master in May, 2006 and posted in Government Senior Secondary School, Wazidpur, District Patiala. He was working on the post of Legal Assistant in the office of District Education Officer (Secondary), Patiala since 09.12.2009. He was suspended vide order dated 16.07.2020 (Annexure P1) and his headquarters was changed from District Patiala to

District Tarn Taran, at a distance of around 250 kms. On 03.08.2020, the petitioner submitted representation to the Education Minister, Punjab to reinstate him in service during pendency of inquiry proceedings. The said representation with recommendation was forwarded by the office of Education Minister, Punjab to the DPI, Punjab for necessary action. The petitioner was chargesheeted vide charge-sheet dated 19.08.2020 (Annexure P4). He submitted a detailed reply to the chargesheet on 09.09.2020 (Annexure P5). Thereafter, the petitioner was reinstated in service pending inquiry vide order dated 24.09.2020 (Annexure P6) and he was posted as Hindi Master in District Tarn Taran. It is further argued that posting of the petitioner on his reinstatement at Tarn Taran is in clear violation of the instructions dated 12.09.2020 issued by the Personnel Department (Annexure P8) whereby the transfers and postings are totally banned till 31.03.2021 and in case the Administrative Department has to order any transfer due to unavoidable circumstances it requires permission of Hon'ble the Chief Minister through Personnel Department.

Counsel representing the respondents, on the other hand, has refuted contentions of the petitioner in respect of his challenge to the order impugned whereby he has been posted as Hindi Master at Government Senior Secondary School, Bhikhiwind, District Tarn Taran. It is argued that pending disciplinary proceedings in respect of allegations of grave misconduct levelled against the petitioner while performing duty as LA in the office of District Education Officer (S.E.), Patiala, petitioner was suspended w.e.f. 17.07.2020 and his headquarters was fixed in the office of

District Education Officer (S.E.), Tarn Taran vide order dated 17.07.2020. It is further argued that in pursuance of order of suspension and fixing the headquarters at Tarn Taran, petitioner submitted his joining report vide diary No.4049 dated 20.07.2020, without any protest. Later, the petitioner submitted representation dated 03.08.2020 (Annexure P3) and taking a lenient view in the matter, the petitioner was reinstated in service pending departmental inquiry on the basis of chargesheet dated 19.08.2020 in respect whereof the petitioner submitted his reply dated 09.09.2020 (Annexure P5). It is argued with vehemence that since headquarters of the petitioner was fixed at Tarn Taran while placing him under suspension pending regular inquiry and he actually joined in the office of District Education Officer, Tarn Taran on 20.07.2020, the petitioner cannot press into service the instructions dated 12.09.2020 issued later by the Personnel Department (Annexure P8).

I have heard counsel for the parties, perused the paper book particularly documents annexed with the petition and reply by way of affidavit of Baljinder Singh, Assistant Director (SA-IV) filed on behalf of respondents No.1 to 5.

Before adverting to the submissions made by counsel for the parties, it is necessary to extract a relevant para of instructions dated 12.09.2020, reads thus:-

Hence in view of Corona situation, the transfers and postings are totally banned till 31.03.2021. In case the Administrative Department has to order any transfer

due to some unavoidable circumstances, it be ensured to get permission of Hon'ble Chief Minister through Personnel Department.

Indisputably, the petitioner was placed under suspension and his headquarters was shifted to Tarn Taran from Patiala vide order dated 17.07.2020. There is no denial that in pursuance of that order, the petitioner submitted his joining report at Tarn Taran on 20.07.2020. The petitioner has not challenged the order by which he was placed under suspension and his headquarters shifted to Tarn Taran, in any appropriate proceedings. Meaning thereby that for all intents and purposes, the petitioner was shifted to Tarn Taran during pendency of disciplinary proceedings. It is also a matter of record that disciplinary proceedings are still pending against the petitioner though he has been reinstated in service and posted as Hindi Master in District Tarn Taran. In the given circumstances, the petitioner cannot press into service the instructions dated 12.09.2020, in order to contend that he has wrongly been transferred from Patiala to Tarn Taran, in violation of the aforesaid instructions.

No other point has been raised.

For the foregoing reasons, finding no merit, the petition fails and is accordingly dismissed leaving the parties to bear their own costs.

03.11.2020

ashok

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No

(REKHA MITTAL)
JUDGE