

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

**CWP No. 17293 of 2020 (O&M)
Date of Decision:16.10.2020**

Kasturi Lal

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. Raje Ram Kaushik, Advocate for the petitioner.

TEJINDER SINGH DHINDSA J.(Oral)

This case has been taken up through Video Conferencing via Webex facility in the light of Pandemic Covid-19 situation and as per instructions.

Petitioner who is serving as ESI under the Haryana Police has filed the instant petition assailing his transfer from Kaithal to Panipat vide order dated 08.10.2020 (Annexure P-2).

The first contention raised by counsel is that the transfer of the petitioner is vitiated by *mala fides*. In this regard, it is contended that FIR number 62 dated 04.03.2011 had been registered against the existing MLA Ms. Kamlesh Dhanda and her relatives. Petitioner was a part of the team of officers who had conducted the investigation and it is only on account of the MLA, having been arrested and the petitioner having performed his duty honestly and diligently, that he has now been punished.

Second submission raised is that the transfer is in violation of the transfer policy/guidelines issued by the Chief Secretary dated 07.04.1989

(Annexure P-3) wherein it is envisaged that a Government employee who is due to retire within the next two years should be allowed to continue at the present place of posting. It is urged that the petitioner is due to retire within the next two years and as such his transfer from Kaithal to Panipat, cannot sustain.

Yet another submission raised by counsel by adverting to the document appended at Annexure P-4 is that father-in-law of the petitioner is admitted in a hospital in Hisar and since the petitioner is attending to him, his transfer from Kaithal to Panipat, would inconvenience him.

Having heard counsel at length and having perused the pleadings on record, this Court is of the considered view that no intervention in the matter is warranted.

As regards the argument of *mala fide* is concerned, petitioner has chosen not to even array the concerned political personality as a party respondent. Under such circumstances, the submission with regard to the petitioner having been victimized at the hands of the existing MLA cannot even be gone into.

Insofar as the transfer policy and guidelines are concerned, it is by now well settled that terms and conditions of a transfer policy do not vest any enforceable right in an employee.

A reference in this regard may be made to the decision of the Honourable Supreme Court in *Union of India vs. SL Abbas, (1993) 4 SCC 357*.

Even otherwise it is not that the petitioner has been transferred on

the verge of retirement. He still has remaining tenure of service of one year and five months.

Illness/medical condition of the father-in-law of the petitioner would not be a relevant ground to justify interference at the hands of this Court in exercise of its extra-ordinary writ jurisdiction under Article 226 of the Constitution of India.

Yet another factor which has weighed with this Court is that counsel on a specific query having been put, has fairly conceded that the petitioner has already enjoyed a tenure of more than 10 years in District Kaithal. Transfer is an incidence of service. Petitioner is holding a transferable post.

No infirmity as such is found in the action of the respondent authorities in having transferred the petitioner out of Kaithal District and his transfer would be seen by this Court as having been directed under normal exigencies of service.

There is no merit in the petition.

Petition dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

October 16, 2020
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No