

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

LPA No.848 of 2020(O&M) in

CWP No.16361 of 2020(O&M)

Date of Decision:-18.12.2020

Daljeet Singh.

.....Appellant.

Versus

State of Punjab & Ors.

.....Respondents.

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

Present:- Mr. Saurabh Arora, Advocate for the Appellant.

JASWANT SINGH, J.(ORAL)

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

Present intra court appeal has been filed by the writ petitioner against the final order dated 03.11.2020 passed by Ld. Single Judge of this Court, whereby the claim raised by appellant-writ petitioner seeking quashing of his transfer order dated 24.09.2020 (P-6) to the limited extent that he has been transferred/posted in District Tarn Taran from District Patiala.

It is argued by the Ld. Counsel for the appellant that the Ld. Single Judge has failed to appreciate that the appellant has been transferred from one District to another which is more than 250 KMs away without

assigning any reason and against the transfer policies issued by the State Government from time to time especially dated 12.09.2020 (P-8) issued in relation to existing COVID-19 situation. It is further argued that the original cadre of appellant is Hindi Master and there are many posts which are lying vacant in the District Patiala and by ignoring the said vacancies, appellant has been posted as Hindi Master in District Tarn Taran. Thus, prayer has been made for allowing the instant appeal.

Heard learned Counsel for the appellant at length and perused the paper book. However, we are of the view that present appeal is devoid of any merits.

Admittedly, the appellant was suspended vide order dated 16.07.2020 (P-1) for grave negligence and his headquarter was changed from District Patiala to District Tarn Taran. It is further not in dispute that appellant was charge sheeted on 19.08.2020 (P-4) to which reply was filed by appellant on 09.09.2020 (P-5). Vide impugned order dated 24.09.2020 (P-6), the appellant has been re-instated pending inquiry and has been posted as Hindi Master in District Tarn Taran. These facts make it abundantly clear that vide impugned order, the appellant has been posted under the Head quarters assigned to him vide order dated 16.07.2020 (P-1) and this order dated 16.07.2020 is not even under challenge before us. Consequently, the Ld. Single Judge had rightly dismissed the writ petition on this ground itself.

Be that as it may, the reliance of appellant on instructions issued by State Government, especially dated 12.09.2020, whereby during COVID-19 situation, transfers are banned and in case same have to be made, then they must be done after approval by Ld. Chief Minister, cannot

come to his rescue as well. The appellant has been transferred to Tarn Taran District prior to the issuance of such instructions i.e on 16.07.2020 and that also evidently on account of his grave misconduct. The instructions are issued by the State for streamlining the process of transfers and avoid unreasonable abuse of power by superiors. However, instructions are not binding in nature and same can be deviated from in certain cases if such transfer does not suffer from colorable exercises or arbitrary use of power. At this stage, prima-facie, we do not find the transfer to be either arbitrary or un-reasonable so as to shock our conscience.

Consequently, the present appeal is hereby ordered to be **dismissed** with no orders as to costs.

(JASWANT SINGH)
JUDGE

(SANT PARKASH)
JUDGE

December 18, 2020
Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>