

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA No. 21 of 2020 (O&M)
Date of decision: 04.03.2020

Harjinder Kaur and another

... Appellants

Versus

State of Punjab and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE RAVI SHANKER JHA,
CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present: Mr. Ramesh Sharma, Advocate,
for the appellants.

ARUN PALLI, J. (ORAL)

This is an intra-court appeal, under Clause X of the Letters Patent, against a judgment and order dated 22.5.2019, rendered by the learned Single Judge, vide which the writ petition preferred by the appellants has since been dismissed.

The facts that are required to be noticed are limited.

Pursuant to the letter of appointment dated 11.9.2014, issued by the Director, Department of Health and Family Welfare, Punjab (respondent No.4), the appellants were appointed as Medical Laboratory Technicians, Grade-II. Accordingly, appellant No.1 was posted at Civil Hospital, Phagwara, District Kapurthala, whereas appellant No.2 was assigned posting at Community Health Centre, Nathana, District Bathinda. In June, 2015, the appellants represented to their Department (respondent No.4), for transferring their services to district Amritsar. Upon consideration whereof, respondent No.4, vide order dated 26.6.2015, transferred them to Guru Nanak Dev Hospital, Amritsar, and Government Medical College, Amritsar.

AMIT KUMAR
I attest to the accuracy and
authenticity of this document

respectively. However, some of the employees working as Laboratory Attendants in the Department of Research and Medical Education (respondent No.2), assailed the order dated 26.6.2015, vide **Civil Writ Petition No. 16400 of 2015 (Gurmeet Singh and others Vs. State of Punjab and others)**. And, in response to the notice issued in those proceedings, the Department of Research and Medical Education, Punjab (respondent No.2), clarified that vide order dated 24.8.2016, the order of transfer of the appellants, dated 26.6.2015, had since been cancelled. This is how, the appellants approached this Court vide a writ petition, as indicated above, assailing the order of cancellation of their transfer.

We have heard learned counsel for the appellants and perused the records.

Ex facie, the appellants were employed as Medical Laboratory Technician Grade-II, in the Department of Health and Family Welfare, Punjab. Pursuant to the order dated 26.6.2015, they were transferred to Guru Nanak Dev Hospital, Amritsar, and Government Medical College, Amritsar, respectively, which are controlled by a separate department, i.e. Department of Research and Medical Education, Punjab (respondent No.2). Undoubtedly, pursuant to their transfer, respondent No.2 required the appellants to submit affidavits that they shall not claim seniority for the service rendered in the Department of Health and Family Welfare. But, the question that seeks an answer is: if under the rules governing the service conditions of the appellants, such an arrangement or transfer was even feasible? The categorical stand set out in the written statement filed by respondent No.2 shows that cadre of Laboratory Staff, i.e. Laboratory Attendants, Medical Laboratory Technician Grade-I, Medical Laboratory

Technician Grade-II and Senior Medical Laboratory Technician, was separate and distinct from the Department of Health (respondent No.3). Thus, transfer of the appellants, pursuant to an order dated 26.6.2015, was an inter-cadre transfer from one department to the other. The post of Laboratory Attendants was lower in hierarchy than the Medical Laboratory Technician Grade-II. Which is why, the Laboratory Attendants working under respondent No.2 assailed the order dated 26.6.2015, for it affected their promotional avenues. Further, a bare reading of the order dated 24.8.2016, impugned in the writ petition, reveals that a conscious decision was taken by the authorities that in future, employees working in the Health Department and the Department of Research and Medical Education shall only be transferred with mutual consent of both the departments, i.e. on receipt of requisition/proposal and NOC from the concerned department.

On being pointedly asked, learned counsel for the appellants could not refer to anything on record to show if the conclusion arrived at by the learned Single Judge was either contrary to the record or suffered from any material illegality.

In the wake of the above, we are dissuaded to interfere with the impugned judgment. The appeal being bereft of merit is accordingly dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

March 04, 2020
AK Sharma

Whether speaking / reasoned: YES
Whether Reportable: NO