

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

**LPA No. 214 of 2021 (O&M) in
CWP No. 9273 of 2020
Date of Decision: 24.02.2021**

Harjit Singh

..... Appellant

Versus

State of Punjab and others

..... Respondents

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

Present: Mr. Puneet Sharma, Advocate
for the appellant.

JASWANT SINGH, J.

Appellant-Harjit Singh has filed the present intra-Court appeal seeking quashing of the impugned order dated 04.08.2020 passed by learned Single Judge whereby challenge to his transfer order dated 11.02.2020 (**Annexure P-5**) has been dismissed. Further, the petitioner has also sought permission to withdraw the writ petition so as to enable him to challenge the basic order dated 09.11.2009/27.01.2010 whereby appellant had been administratively transferred to Government Elementary School, Ajram on account of charge sheet/punishment dated 09.11.2009.

[2] Learned counsel for the appellant has argued that the learned Single Judge has not considered the fact that there is clear cut violation of Transfer Policy-2018 (**Annexure P-12**) wherein the appellant has not only been transferred mid-term but also for the fourth time in the past 2½ years, although as per policy a teacher can be transferred after three years.

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It is further submitted that the impugned order dated 04.08.2020 is required to be set aside as the appellant intends to challenge the orders dated 09.11.2009 and 27.01.2010 wherein the appellant was administratively transferred to Government Elementary School, Ajram (which is present place of posting as well) on account of some punishment given vide order dated 09.11.2009 in furtherance of charge sheet dated 01.06.2009. It is pleaded that the order dated 09.11.2009 was eventually set aside vide Judgment/decreed dated 22.05.2017 (**Annexure P-1**) passed by Civil Court in Civil Suit No. 339 of 2012/2013. Hence, prayer has been made for allowing the instant appeal.

[3] We have heard learned counsel for the appellant at length and have scrutinized the paper book.

[3.1] A perusal of the record shows that initially the appellant was aggrieved against his transfer order whereby he was posted from GES Dhakowal, Block Hoshiarpur 2A to GES, Herma. Being aggrieved against the said order, the appellant preferred a CWP No. 8906 of 2019 which was disposed off with a direction to the competent authority to look into the matter afresh and pass appropriate orders. In pursuance thereto, the case of appellant was re-examined and he was sent back from GES Dhakowal to his parent school (i.e the school from where he is drawing his salary) i.e GES Ajram, Block Hoshiarpur, 2A vide impugned order dated 11.02.2020 (**Annexure P-5**). It is thus seen that the appellant had himself invited the impugned order dated 11.02.2020 (**P-5**) and it cannot be said that there is violation of 2018 transfer policy in this case,

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as it was in compliance of order passed by a Single Bench of this Court that the impugned order was passed. Furthermore, through the impugned order, the appellant has been transferred back to his parent school from where he was drawing his salary. This, in no manner can be said to be violative of principle of natural justice or even arbitrary exercise of administrative powers.

[3.2] Here we also intend to add that 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 exercise or arbitrary use of power. Present case does not fall under these exceptions as we do not find the transfer to be either arbitrary or un-reasonable so as to shock our conscience.

[4] As far as the prayer of petitioner that he be permitted to withdraw the writ petition itself so as to enable him to challenge orders dated 09.11.2009/27.01.2010 is concerned, we are of the firm view that same cannot be accepted at all. De-hors our doubt regarding the maintainability of challenge to said orders in writ court at this stage when it is pleaded before us that aforementioned orders have already been set aside by civil court vide judgment/decreed dated 22.05.2017, we cannot permit the appellant to revive a time barred claim which he ought to have challenged within reasonable time.

[5] In view of the above, finding no merit, the present **appeal** is hereby ordered to be **dismissed**.

[5.1] Since the main appeal has been dismissed, no orders are required to be passed in the pending miscellaneous application(s), if any, and the same stand(s) disposed of.

(JASWANT SINGH)
JUDGE

February 24, 2021
'dk kamra' /vs

(SANT PARKASH)
JUDGE

Whether Speaking/reasoned	Yes
Whether Reportable	Yes