

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(Proceedings through VC)

118 - LPA-528-2021 (O&M)

Date of Decision: 15.06.2021

Satpal Sharma

... Appellant

VS.

State of Haryana & Ors.

... Respondents

**CORAM: Hon'ble Mr. Justice Augustine George Masih
Hon'ble Mr. Justice Girish Agnihotri**

Present: Mr. Sukhdeep Singh, Advocate for
Mr. Parminder Singh, Advocate for the appellant

Augustine George Masih, J. (Oral)

Challenge in the present appeal is to the order dated 03.05.2021 passed by learned Single Judge whereby the order dated 04.03.2021 (Annexure P4) vide which the appellant has been transferred from Panipat to Kaithal against vacancy and the order dated 09.04.2021 (Annexure P7) whereby on a direction issued by this Court in an earlier writ petition preferred by the appellant i.e. CWP No.5850 of 2021 vide order dated 15.03.2021 (Annexure P6) the representation of the appellant was ordered to be decided by passing a speaking order within one month, has been so done by rejecting the same, have been upheld dismissing the writ petition of the appellant.

The contention of learned counsel for the appellant is that the transfer of the appellant has been carried out at the behest of one of his cousins namely, Bijender who was previously posted as OSD with Deputy Chief Minister, Haryana. It was under his influence that the transfer order was passed on 04.05.2018 which was challenged by the appellant in CWP No.24884 of 2018 whereby the transfer order of the appellant was stayed by this Court vide order dated 27.09.2018 (Annexure P3). It is during pendency

of the said order of stay of transfer that now again the transfer of the appellant has been ordered on 04.03.2021 (Annexure P4). He asserts that the transfer order being based on *mala fides* on the part of his cousin brother, the impugned order cannot sustain. That apart, he asserts that there are other employees continuing in the office at Panipat who have longer stay than the appellant but the appellant is the one who has been made the scape-goat and has been transferred only on completion of 3 years of service. He therefore, asserts that the impugned order cannot sustain and deserves to be set aside.

(2) Having considered the submissions made by learned counsel for the appellant, we are not in agreement with the same especially in the light of the fact that the transfer is an incidence of service and it is for the administrative authorities to decide where an employee would be best suited and where his services are required.

(3) In the present case, initially when the appellant had approached this Court in the year 2018, his grievance was that he was transferred within one year of his posting. It is in these circumstances that this Court proceeded to pass order (Annexure P3) staying the transfer order. The intent of passing the stay order in favour of the appellant was apparently his short stay at Panipat when he was transferred. That is not the position here as it is an admitted fact that the appellant has completed more than 3 years' of service at Panipat and he has now been transferred to Kaithal and that too against a vacancy.

(4) As regards the allegations of *mala fide* which is attributed to one of his cousin brothers, suffice it to say that the said person has not been impleaded as party to the present writ petition. In the absence of such a person being made as party, even if *mala fide* is sought to be alleged against

that person, it cannot be made the basis for proceeding in the matter. That apart, we do not find any ground to interfere in the present case as the order passed by the learned Single Judge is based upon proper appreciation of the facts and the law as it is not disputed that there is no policy which has been violated by the respondents while passing the impugned transfer order.

(5) In view of the above, we do not find any merit in the present appeal and the same is accordingly dismissed.

(Augustine George Masih)
Judge

15.06.2021
Vvishal

(Girish Agnihotri)
Judge

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

Yes
No