

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

**CWP No. 24044 of 2021.
Date of Decision: 26.11.2021.**

Jaspal Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Rajeev Sharma, Advocate,
for the petitioner.

MAHABIR SINGH SINDHU. J.

Writ petition was filed under Article 226 of the Constitution for issuance of a writ in the nature of Certiorari for quashing the impugned order dated 02.11.2021 (P-2) whereby the earlier transfer order of petitioner issued on 21.10.2021 has been cancelled.

2. It is contended that while issuing the order impugned, the competent authority has not taken into consideration the fact that earlier transfer order was issued on the basis of mutual consent of both the employees i.e. petitioner as well as private respondent. Further contends that order impugned is in violation of transfer policy and a reference is made to Policy dated 11.04.2017 (Annexure P-3). It is also contended that just to accommodate their own person, the order impugned has been passed.

3. Heard learned counsel for the petitioner and perused the paper-book.

4. Law is well settled that transfer policies are mere guidelines for internal working of the department. This Court, after relying upon the judgments of the Hon'ble Supreme Court, reported as **(i) Shilpi Bose (Mrs.) and others Versus**

State of Bihar and others, 1991 Supp (2) SCC 659; (ii) Union of India and

others Versus S.L. Abbas, (1993) 4 SCC 357 and (iii) State of U.P. and others Versus Gobardhan Lal, (2004) 11 SCC 402, while deciding CWP No.13925 of 2021, titled as “Ravinder Kumar and others Versus State of Punjab and others” vide order dated 28.07.2021, in para 21, *inter alia*, came to the conclusion that: -

“Transfer policy is merely a set of guidelines for the authorities concerned, without there being any legal backing; thus, the same is not legally enforceable under Article 226 of the Constitution except in the circumstances mentioned in para 10 (supra).”

5. For reference, the exceptional circumstances enumerated in para 10 of the order dated 28.07.21 can be recapitulated as under:-

- (i) where the transfer orders were made in violation of the Service Rules or;
- (ii) based on mala fide ;
- (iii) detrimental to the career of the employees;
- (iv) any other analogous reason(s).

6. Again in para 12 of the above order, it was observed that *“It is for the competent authority to decide as to who should be transferred; where to be transferred; and when to be transferred. Even if a transfer order is issued dehors the transfer policy or the policy has been ignored by an officer, the recourse open for the employee is to approach the higher authority. In case the superior authority comes to the conclusion that there is a violation of the transfer policy or the subordinate officer has disregarded the order passed by the higher officer without any justification, he may expose himself to the departmental action as per law.”*

7. As a result of the above discussion, it is held that for smooth functioning of the administration, instead of interfering with transfer matters in routine, it would be appropriate to leave this arena to the competent authority until

and unless the action complained has caused manifest injustice to the aggrieved person or non-interference by this Court shall result into failure of justice.

8. In the present case, there is no doubt that on earlier occasion, petitioner was transferred from Sub Centre Basau Badhwa, PHC Narot Jamel Singh, District Pathankot to Sub-Centre Pabaralli, CHC, Fatehgarh Churian, District Gurdaspur and now that transfer order has been cancelled, but petitioner has failed to substantiate that he has suffered any element of manifest injustice or non-acceptance of his prayer will result into failure of justice in any manner.

9. In view of above, this Court does not find any ground to interfere in the impugned order dated 02.11.2021 (P-2).

10. Dismissed.

11. However, petitioner would be at liberty to raise his grievance before the authority concerned, if so advised and the same shall be considered by the concerned quarter expeditiously.

26.11.2021.

SN

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable: Yes/No