

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

**CWP No.25258 of 2021 (O&M)
Date of Decision: 13.12.2021**

Sukhwinder Singh Chohan

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Dr. Naresh Kaushik, Advocate for the petitioner.

MAHABIR SINGH SINDHU, J.

Present writ petition has been filed under Article 226 of the Constitution of India for issuance of a writ in the nature of certiorari for setting aside the impugned transfer orders dated 23.11.2021 (P-2 & P-3, respectively) qua the petitioner.

(2) Brief facts of the case are that initially on 19.11.1991, petitioner joined the respondent-Department as Forest Guard on compassionate ground. On 19.03.2021, Departmental Promotion Committee recommended to promote him as Deputy Ranger. Thereafter, vide order dated 30.07.2021 (P-1), he was transferred as Incharge Amritsar-2 Range, Amritsar Division. Later on, vide order dated 23.11.2021 (P-2), one Lakhwinder Singh, Forest Ranger, Incharge Extension, Range Phillaur, Extension Division was transferred against the petitioner; whereas he (petitioner) has been transferred to Gurdaspur Block,

Gurdaspur Extension Division against vacant post, vide order dated 23.11.2021 (P-3). On 29.11.2021, petitioner approached the respondent(s) for cancellation of his transfer, but till date, no action has been taken. Hence, the present petition.

(3) It is contended that impugned orders are in violation of the transfer Policies dated 11.04.2017 and 23.04.2018 (P-4 & P-5, respectively). Also contended that vide letter dated 23.11.2021 (P-6), respondents imposed complete ban on the transfer, but just to accommodate their own person, impugned orders have been passed.

(4) Heard learned Counsel for the petitioner and perused the paper-book.

(5) It is well settled that transfer policies are mere guidelines for internal working of the department and 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)."

For reference, the exceptional circumstances enumerated in para 10 of the order dated 28.07.2021 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).*

Still further, 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.*”

(6) In view of the above, there remains no doubt that transfer policies are for smooth functioning of the administration and it is better to leave this arena to the competent authority unless the action complained has caused manifest injustice to the aggrieved person or non-interference by the Court will result into failure of justice.

(7) In the present case, petitioner has failed to substantiate that he has suffered any element of manifest injustice or non-acceptance of his prayer will cause any monetary loss or detrimental to his career in any manner. Moreover, the allegation to the effect that impugned transfer order has been passed to

accommodate some favorite is also not acceptable for the reason that above said Lakhwinder Singh has not even been impleaded as party respondent.

(8) In view of the above, this Court does not find any ground to interfere with the impugned transfer orders. As a result thereof, there is no option except to dismiss the present petition.

Ordered accordingly.

(9) However, it is made clear that dismissal of the present writ petition shall not debar the petitioner from pursuing his request, if already pending with the respondents or to raise his grievance by way of written representation before the competent authority.

Pending application(s), if any, shall also stand disposed off.

December 13th, 2021
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

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