

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

CWP No.732 of 2022 (O&M)

Date of Decision: 14.01.2022

Raghubir Singh

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Mr. Vivek K. Thakur, Advocate for the petitioner.

MAHABIR SINGH SINDHU, J.

Present writ petition is filed under Article 226 of the Constitution for quashing the impugned speaking order dated 27.12.2021 (P-18), passed by the competent authority, whereby representation of petitioner against transfer order has been rejected.

(2) It is contended that request has been rejected under the influence of private respondent No.6, namely, Reetika Grover and that is the precise reason that petitioner was transferred twice in violation of the Instructions dated 23.11.2021 issued by the State of Punjab. Also contended that no complaint whatsoever is pending against the petitioner and he has been made a scapegoat while passing the impugned order. Further contended that impugned order has been passed as a punishment on the basis of internal inquiry; thus, the same is not legally sustainable.

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

(4) There is no dispute that petitioner is neither holding any civil post; nor he is the civil servant; rather only working under a Scheme; thus, *stricto sensu* the Instructions dated 23.11.2021, issued by the State Government, are not applicable to him.

(5) Even otherwise, it 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)."

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.”

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.

(6) 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.

(7) Concededly, against transfer order, petitioner made a representation to the competent authority and that has been duly considered, but rejected while observing that an internal inquiry was conducted against him on 28.09.2021. As per inquiry report, the entire environment of the Office is suffering due to the frivolous complaints made by petitioner and relevant part of the same reads as under:-

“The grievance of the applicant is unfounded as the instructions dated 23.11.2021 are not strictly applicable to National Health Mission, Punjab. The NHM is a separate and distinct entity from the State of Punjab and same is registered as one of the society namely State Health Society, Punjab under the Societies Registration Act, 1860. Even otherwise the National Health Mission is a project conceived by the Government of India. The project is totally funded on sharing basis by the Central

Government and respective State Government in the ratio of 60:40% each. So, in view of the above the instructions dated 23.11.2021 issued by Department of Personnel, Govt. of Punjab are not binding on the National Health Mission, Punjab.

Secondly, the Departmental proceedings were initiated against Sh. Raghbir Singh, District Programme Manager on the basis of complaints received against him. The Departmental inquiry was conducted and the relevant portion of the inquiry report dated 28.09.2021 on translation reads as under:-

“The inquiry concluded that Sh. Raghbir Singh habitual in making complaints against his fellow employees and was not having proper coordination with his officers and other employees. Due to this the environment of the office and work suffers.

In view of the inquiry report dated 28.09.2021 and in order maintain friendly environment at work place and in order to ensure that office work does not suffer, it was decided to transfer the applicant – Raghbir Singh to the office of Civil Surgeon, Barnala.”

(emphasis supplied)

In view of the above discussion, it is held that the competent authority was fully justified while passing the impugned order dated 27.12.2021 and this Court does not find any ground to interfere with the same while exercising jurisdiction under Article 226 of the Constitution. As a result thereof, there is no option except to dismiss the present petition.

Ordered accordingly.

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

January 14th, 2022

Gagan

(MAHABIR SINGH SINDHU)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>