

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

120

CWP-13153-2022

Date of decision : 04.07.2022

Yadwinder Singh

....Petitioner

V/s

The Central Administrative Tribunal, Chandigarh Bench,
Sector 17-E, Chandigarh and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE G.S. SANDHAWALIA
HON'BLE MR. JUSTICE VIKAS SURI**

Present: Mr. Jaswinder Singh, Advocate for the petitioner.

G.S. SANDHAWALIA, J. (ORAL)

Challenge in the present petition is to the order dated 25.05.2022 (Annexure P-5) of the Central Administrative Tribunal whereby the petitioner's challenge to the transfer from Bathinda Postal Division to the post of Postal Assistance, Dasuya HQ, Hoshiarpur Postal Division, was rejected.

A perusal of the paper-book would go on to show that the petitioner had joined the respondent Department as Postal Assistant on 01.05.2008 in Bathinda Postal Division and was posted as Sub Post Master (PA) Boha Sub-Post Office, Bathinda Division. He was transferred on 08.09.2021 from Boha Sub-Post Office, Bathinda Division to Bhagta Bhai, S.O. Bathinda Division. Apparently, the petitioner did not join the new station of his posting which was stated to be due to indisposition. Resultantly vide order dated 10.12.2021, whereby under Rule 37 of the Postal Manual Volume IV, he was transferred to Dasuya Head Post Office in Hoshiarpur Division on administrative ground and in the interest of service. Keeping in view the fact that the petitioner had not joined the duty since 13.09.2021, his name was struck off from the Bathinda Division. Resultantly, a challenge was raised that his transfer was not justified.

The respondents by filing the written statement had taken a stand the petitioner was habitual in submitting the medical certificates of illness for the past two years and had not attended the duty approximately for 470 days since 2019 by submitting the medical certificates from different doctors located at different stations. Petitioner had also been asked to appear before the medical board formed for acquiring a second medical opinion. However, he did not attend the same and accordingly charge-sheet was issued to him which is stated to be subject matter of independent proceedings before the Tribunal as a challenge was raised to it. Accordingly, a stand was taken that from the year 2008 i.e. from the very beginning of the service of the petitioner, he was mostly posted in Bathinda Division apart from the period from 27.04.2013 to 31.07.2018, when he was posted in Mansa MDG. Stand was also taken that the petitioner was resorting to social platforms and blackmailing the staff of Budhlada SO and the factum of transfer of the petitioner that he belonged to SC category had no relevance. It was accordingly, submitted that the transfer order had been issued in the interest of service and on administrative grounds which was duly recommended by the Transfer and Placement Committee. On account of being habitual of submitting medical certificates of illness and lodging complaints against the officials and officers of the department with police authorities, the transfer of the petitioner was proposed by the SPOs Bathinda, which was duly examined by the Transfer and Placement Committee who after considering all facts and circumstances of the case, recommended the transfer of the petitioner in its meeting held on 08.12.2021. It was also pointed out that the petitioner had made repeated false complaints against various officials and in such circumstances, it would be in the

interest of administration to transfer the petitioner from the present Division to another Division.

Rule 37 of the Postal Manual Volume-IV was taken into consideration by the Tribunal which gave jurisdiction to the authorities whereby any official could be transferred to any part of India and from one division to another division in the interest of administration and thus, he did not fall in the exemption category of Postman or MTS. It was also noticed that under Rule 38 of the of the Postal Manual Volume-IV, where an official was transferred at his own request, he losses the seniority which was not in case of the petitioner. Resultantly, while relying upon various judgments of the Apex Court and keeping in view the facts and circumstances as available on record, the Tribunal held that in the interest of administration, transfer of the petitioner was not to be interfered with.

Counsel for the petitioner has tried to raise an issue regarding the composition of the Committee which has been set-up to submit that it is not per instructions dated 13.03.2015. However, apparently counsel could not point out whether the said issue was ever raised before the Tribunal and has only been able to refer to the filing of the rejoinder to the written statement wherein the said fact was mentioned. Apparently, the said issue was never raised or argued before the Tribunal which would be clear from the impugned order also. It is thus, apparent that the said issue was never raked up before the Tribunal.

Keeping in view the nature of controversy as such, we are of the considered opinion that the conduct of the petitioner that he has not joined the duty since 13.09.2021, when he was first transferred within Bathinda Division, no interference is called for. It is settled principle that the transfer orders are not liable to be interfered on the asking and it is on account of his overall conduct as such

that petitioner has been moved out from Bathinda Division to Hoshiarpur Division. The relevant rule 37 of the Postal Manual Volume-IV as such provides that employee can be transferred to any part of India. The same reads as under:-

“Notwithstanding anything contained in these guidelines an official is liable to be transferred to any part of India unless it is expressly ordered otherwise for any particular class or classes of officials.

Provided that Postmen, Village Postman and MTS should not, except for very special reasons to be recorded in writing, be transferred from one district to another.”

Keeping in view the background of the petitioner as discussed by the Tribunal and the principle that transfer is an incident of service, we are of the considered opinion that it is not a fit case for exercising the extra ordinary writ jurisdiction of this Court.

Accordingly, the present petition is dismissed, in limine.

(G.S. SANDHAWALIA)
JUDGE

(VIKAS SURI)
JUDGE

July 04, 2022
Ajay

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No