

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

**CWP No. 14965 of 2022.
Date of Decision: 18.07.2022.**

Iqbaljeet Singh

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE MAHABIR SINGH SINDHU

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

MAHABIR SINGH SINDHU. J.

Writ petition is filed under Article 226 of the Constitution for issuance of a writ in the nature of Certiorari for quashing the impugned orders dated 07.07.2022 (P-1) and 08.07.2022 (P-2) whereby petitioner was transferred from Jalandhar to Head Office Mohali and on the very next day from Head Office, Mohali to Makhu, District Ferozepur.

2. Contends that petitioner has been transferred on five occasions in the past five months. Also contends that transfer is not on administrative grounds; rather a counter-blast in view of the fact that petitioner tried his best to execute the orders to recover the *Shamlat deh* from encroachers of the village. Also contends that petitioner is going to retire on attaining the age of superannuation on 31.12.2022. Further contends that orders impugned are in violation of transfer policy dated 23.04.2018 (Annexure P-3).

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 aforesaid 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).

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, 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, concededly the petitioner has remained in his home district for more than eight years. So far as execution of orders is concerned, that would be part of his duty. Moreover, there is no such reflection in the impugned orders that petitioner has been transferred on that account. The contention that order is in violation of the transfer policy is also not acceptable in view of the fact that transfer policies are just guidelines and not legally enforceable. The 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 with the impugned orders dated 07.07.2022 (P-1) and 08.07.2022 (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.

18.07.2022

SN

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable: Yes/No