

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

CWP No.23216/2022

Date of decision: 07.10.2022

Subhash Chander

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

CORAM: HON'BLE JUSTICE MS. NIDHI GUPTA

Present:- Mr.Suneet Kumar, Advocate for the petitioner.

Mr.Shivendra Swaroop, AAG Haryana

Nidhi Gupta,J. (Oral)

Prayer in this writ petition filed under Articles 226/227 of the Constitution of India is for issuance of a writ especially in the nature of certiorari for setting aside the impugned transfer order dated 13.9.2022, which was endorsed on 30.9.2022 (Annexure P-2) by respondent no.4, whereby the petitioner has been transferred from Fatehabad to Ambala.

Learned counsel for the petitioner submits that the petitioner is working as Assistant Agriculture Engineer at Fatehabad and is impugning the transfer order (Annexure P-2) inter-alia, on the ground that he is a heart patient and getting his treatment from Hisar. He further contends that the transfer of the petitioner has been done as a *vice versa*

with respondent no.5, who has just joined the organization on 10.3.2022 and is on probation but has somehow managed this transfer.

On instructions from the petitioner, learned counsel further states that the petitioner never gave his consent for transfer. It is also submitted that the exams of daughter of the petitioner are to be held soon and great hardship will be caused to the petitioner if he is transferred.

On advance notice, Learned counsel for the State puts in appearance and on instructions from Sh.Pradeep Kumar, Assistant submits that the petitioner has already spent almost 15 years at Fatehabad. It is stated that the petitioner remained posted at Fatehabad first as Agriculture Development Officer for 11 years, and subsequently as Assistant Agriculture Engineer for 4 years thereafter.

After hearing counsel for the parties and perusing the record, this Court is not inclined to interfere in the matter.

There are plethora of judicial pronouncements whereby this legal issue is well settled that transfers are an exigency of service, and judicial review of administrative transfers is limited. In this regard, reference may be made to **2004(11) SCC 402 State of U.P. and others vs. Gobardhan Lal (with) D.B.Singh vs. D.K.Shukla and others** wherein the Hon'ble Supreme Court has held that "*transfer is prerogative of the authorities concerned and courts should not normally interfere therewith except when (i) transfer order is shown to be vitiated by*

malafide; or (ii) in violation of any statutory provision; or (iii) having been passed by any authority not competent to pass such an order.”

In another case, **2020 (19) SCC 46 Punjab and Sind Bank and others v Durgesh Kuwar** in para 17, Hon’ble Supreme Court has been pleased to hold that “*Unless an order of transfer is established to be malafide or contrary to statutory provision or has been issued by any authority not competent to issue the transfer order, Courts in exercise of judicial review would not be inclined to interfere.*”

Admittedly, in the present case none of the above three exceptions are stated to exist to vitiate the impugned order of transfer.

Accordingly, in view of the above facts, and position in law, this writ petition is hereby dismissed.

(Nidhi Gupta)
Judge

07.10.2022
Joshi

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No