

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

121

CWP-1982-2021 (O&M)
Date of Decision: 11.12.2023

Pooja Kumari

...Petitioner

Versus

Union of India and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Daljeet Singh Virk, Advocate for
Mr. Ateeb Kanth, Advocate for the petitioner

Mr. Satya Pal Jain, Additional Solicitor General with
Ms. Gurmeet Kaur Gill, Senior Panel Counsel,
for Union of India-respondents

JAGMOHAN BANSAL, J. (Oral)

1. On 29.01.2021, the following order was passed:-

“Ordinarily, this Court refrains to interfere in the transfer matters. However, present case, prima facie, seems to be a rather harsh one. Petitioner, a staff nurse herself, is mother of a son aged 4½ years having a congenital disorder. He is stated to be suffering from Autism Spectrum Disorder with Speech and Development Delay. The child is undergoing special treatment at Jalandhar, current place of petitioner’s posting. Vide impugned transfer order, mother/petitioner has been transferred to Kolkata. She would have to necessarily, therefore, change the doctors midstream, as the child would have to go to Kolkata with his mother, who has to comply with the transfer order dated 02.03.2020, under challenge before this Court.

Learned counsel for the petitioner strenuously argues that the petitioner would have joined at Kolkata,

but for the fact that, of late her son has been responding to the special treatment being given to him by the doctors at Jalandhar. In the premise, she cannot deprive her child of further treatment at this stage.

On query of the court, that the petitioner has been posted at Jalandhar since 2016 and cannot possibly be allowed to continue there permanently on the ground of her child, learned counsel for the petitioner states that as per the medical advice of the doctors, if the child is allowed further treatment from same doctors, at Jalandhar, for just one more year, the follow up treatment thereafter can be meted out at any other appropriate place, wherever the petitioner is then posted.

Notice of motion.

On advance service of copy of the petition, Ms. Gurmeet Kaur Gill joins the proceedings & accepts notice. She seeks short accommodation to get instructions qua the aforesaid averments of the learned counsel for the petitioner, more particularly, to check, if benefit of policy/instructions dated 6.6.2014 (Annexure P-6) can be accorded to the petitioner, as a special case on humanitarian grounds.

Adjourned to 03.03.2021.

Till then, operation of the impugned transfer order dated 02.03.2020 shall remain stayed qua the petitioner.”

2. Learned counsel for the respondents submits that petitioner is posted at Jalandhar since 2016 and maximum period of stay at one unit, for paramedical staff, is four years, thus, petitioner cannot be further accommodated because respondent is a disciplined Armed Force. The petitioner has initially sought one year accommodation whereas on account of

interim order passed by this Court, she has already stayed at Jalandhar for three years. The petitioner had offered Gwalior and Guwahati as her alternative place of posting. The respondent is ready to post petitioner at Guwahati as well as Gwalior.

3. Learned counsel for the petitioner submits that petitioner may be permitted to give more options apart from afore-stated places.
4. Faced with this, learned counsel for the respondents submits that case of the petitioner would be sympathetically considered in the light of instructions issued by Government and competent authority would consider the places as suggested by petitioner subject to availability. The transfer of the petitioner would be effected from April' 2024.
5. In the wake of statements of both sides, the present petition stands disposed of.

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

(JAGMOHAN BANSAL)
JUDGE

11.12.2023
Mohit Kumar

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