

120 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-14065-2023
Date of decision: 06.07.2023

Anjan KumarPetitioner

V/s

Punjab State Power Corporation Limited and others
...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Manish Prabhaker, Advocate
for the petitioner.

DEEPAK MANCHANDA J.

The instant petition has been filed under Article 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing the office order No.192 dated 31.05.2023 (Annexure P-1) whereby petitioner has been transferred from Sub-Division, Hajipur to Sub-Division 1, Bhogpur being against the Transfer Policy dated 29.03.2010 (Annexure P-2) and with a further prayer directing the respondents to allow the petitioner to join at previous post at Hajirpur in Division Mukerian.

The brief facts emanated from the petition are that the petitioner joined as an Assistant Lineman (for short – ALM) on 27.08.2018 in Sub-Division at Hoshiarpur in the office of Punjab State Power Corporation Limited (for short – PSPCL) and since 27.08.2021 he started to get his regular scale against the ALM post. Before the transfer order, he was working as an Assistant Lineman at Hajipur Sub-Division in the Division Mukerian under respondent No.4. However,

on 31.05.2023, the respondent No.2 passed the impugned order vide office order No.192 (Annexure P-1) and transferred the petitioner from Sub-Division Hajipur to Sub-Division Bhogpur-1. The Sub-Division Hajipur falls in the Division Mukerian in District Hoshiarpur whereas Sub-Division-1 Bhogpur falls in the Division Bhogpur in District Jalandhar.

Learned counsel for the petitioner contends that as per policy after completion of 15 years of service of ALM only 20% of employees may be shifted to another division whereas on the present post there are total 39 sanctioned posts and out of total 39 posts only 11 are working at Hajipur Sub-Division, hence, with the transfer of the petitioner only 10 ALMs would be left to officiate the work which means that only 25% staff would be left out of total sanctioned posts, whereas as per policy maximum 20% employees can be shifted which means that at least 80% employees against sanctioned posts are always to be there on that station but in the present situation after transfer of the petitioner only 25% against sanctioned posts would be left to officiate the job hence this action is against the policy.

He further contends that as per the transfer policy out of Sub-Division only 30% ALMs can be shifted after completion of 10 years and similarly out of Division only 20% can be shifted after completion of 15 years and similarly out of town but within the same circle only 30% can be shifted after completion of 25 years but in the present case the petitioner has been transferred after the completion of only 3½ years at Hajipur Sub-Division and that too he has been transferred not only from one Sub-Division to another Sub-Division only, rather his Division has been changed and even town has also been changed whereas as per policy till the completion of 25 years of his service he could not be

Heard learned counsel for the petitioner.

This Court is of the view that it is well settled law that transfer is an incidence of service, it is not for the employee to make a choice to transfer him at a particular place. It is for the employer to transfer an employee considering the requirement. Until and unless the transfer is vitiated by *malafide*, this Court is not inclined to interfere with the order of transfer. The Hon’ble Supreme Court while dealing with the scope of judicial review in the matter of transfer, held that transfer is an incidence of service and normally should not be interfered with by the Court. If any administrative guidelines recalling transfer of an employee are violated, at best, the same confers the right on the employee to approach the higher authorities for redressal of his grievance.

In light of above, the writ petition fails and is hereby dismissed.

06.07.2023
seema/sapna

(DEEPAK MANCHANDA)
JUDGE

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