

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

CWP-14123-2023

Date of decision: 07.07.2023

Ashwani Kumar

.....Petitioner

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.

Ms. Kamaldeep Kaur, Advocate
for respondents-PSPCL.

DEEPAK MANCHANDA J. (ORAL)

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) qua the petitioner whereby he has been transferred from Sub-Division, Hajipur which falls in Division Mukerian, District Hoshiarpur to Sub-Division 2, Bhogpur under Division Bhogpur, District Jalandhar 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 Hajipur in Division Mukerian, District Hoshiarpur.

The brief facts emanated from the petition are that the petitioner joined as a Lineman against the regular post on 21.03.1997 in Construction Division at Hoshiarpur in the office of Punjab State Power Corporation Limited

(for short – PSPCL) and after more than 25 years he was promoted to the post of Junior Engineer/Additional Assistant Engineer (for short – JE/AAE) on 13.04.2022 at Hajipur Sub-Division under respondent No.4. 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-2. The Sub-Division Hajipur falls in the Division Mukerian in District Hoshiarpur whereas Sub-Division-2 Bhogpur falls in the Division Bhogpur in District Jalandhar.

Learned counsel for the petitioner contends that as per policy after completing eight years of service of JE/AAE only 20% of employees may be shifted to another division whereas on the present post there are total six sanctioned posts and out of total six posts only three are working at Hajipur Sub-Division, hence, with the transfer of the petitioner only two JEs would be left to officiate the work which means that only 33% 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 33% 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% JE/AAE can be shifted after completion of four years and similarly out of Division only 20% can be shifted after completion of eight years and similarly out of town but within the same circle only 30% can be shifted after completion of sixteen years but in the present case the petitioner has been transferred after the completion of only two years at Hajipur Sub-Division and

Division only, rather his Division has been changed and even town has also been changed whereas as per policy till the completion of sixteen years of his service he could not be transferred out of town.

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.

07.07.2023
Ajay Goswami/sapna

(DEEPAK MANCHANDA)
JUDGE

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