

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

CWP-14866-2023

DECIDED ON: 17.07.2023

MADAN LAL

.....PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Sandeep Goyat, Advocate, for the petitioner.

Ms. Shruti Jain, Goyal, Sr. DAG, Haryana.

Mr. Baldev Raj Mahajan, Sr. Advocate with
Ms. Nikita Goel, Advocate for respondents No.2 to 5.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court has been invoked under Article 226/227 of the Constitution of India for issuance of an appropriate writ in the nature of certiorari to quash the impugned transfer order dated 16.06.2023 (Annexure P-1), passed by respondent No.2 vide which the petitioner was proposed to be transferred in the office of XEN/OP Division, DHBVN, Nuh.

2. Learned counsel has vehemently contended malafide on the part of Shri Ranjit Singh Chautala sitting MLA-respondent No.5, who is holding the portfolio as Cabinet Minister of Power in the State of Haryana and the transfer has been alleged on his behest, once the wife of the petitioner welcomed some workers of Indian National Lok Dal on 14.06.2023 being Sarpanch of Village Sahuwala.

3. The contention further made by the petitioner in the writ petition depict that another ground for challenging the transfer order is the new place of posting being at 350 kms from present place i.e Panjuana, District Sirsa.

4. Mr. Baldev Raj Mahajan, Learned Sr. Advocate appearing for respondents No.2 to 5 has drawn attention of this Court to the impugned order dated 16.06.2023 and also to the column of remarks, according to which the posting of the

petitioner has been made, considering the acute shortage of technical staff in the office of XEN/OP, Division, DHBVN, Nuh and ruled out any malafide, asserting that and the wife of the petitioner namely Kavita Rani is from the very beginning a member of the Indian National Lok Dal and as such had there been any ill will towards the petitioner, he would have been transferred earlier in time.

5. Heard.

6. In the transfer matters the scope of judicial review is very limited. It is a trite law that no government servant has any legal right to be posted at a particular place of his choice. Transfer is an incident of Government service. Transfer order can be challenged only on the ground of violation of the statutory rules or *mala-fide*. If the transfer order is in violation of the transfer policy, the Supreme Court in the case of “Union of India vs. S.L. Abbas; (1993) 4 SCC 357; has held that guidelines/transfer policy does not confer upon the Government employee a legally enforceable right to challenge it under Article 226 of the Constitution of India. The Supreme Court again dealt with the matter of transfer in the case of State of U.P. and others v. Gobardhan Lal, (2004) 11 SCC 402, and in paragraph No. 8 of the judgement, the Supreme Court held as follows:

“8. A challenge to an order of transfer should normally be eschewed and should not be countenanced by the courts or tribunals as though they are Appellate Authorities over such orders, which could assess the niceties of the administrative needs and requirements of the situation concerned. This is for the reason that courts or tribunals cannot substitute their own decisions in the matter of transfer for that of competent authorities of the State and even allegations of mala fides when made must be such as to inspire confidence in the court or are based on concrete materials and ought not to be entertained on their mere making of it or on consideration borne out of conjectures or surmises and except for strong and convincing reasons, no interference could ordinarily be made with an order of transfer.”

7. It is not a case, where recently the wife of the petitioner has worked at the behest of Indian National Lok Dal to which the respondent-DHBVN has relevancy or concern to interfere and respondent No.5-Ranjit Singh Chautala is also holding the portfolio as Minister of Power since 2019. Therefore, the question of alleging any malafide against respondent No.5 and any other respondent or any kind of arbitrariness now only once the impugned order on behalf of respondents No.1 to 4 has been passed is purely on administrative exigencies.

8. An employee has no right to be posted at a particular place for an indefinite period. It is entirely in the wisdom of the employer for better administration, to decide where and at what point of time a public servant required to serve in the State. The Supreme Court has consistently taken the view that an order of transfer is a part of service conditions of an employee which should not be interfered with ordinarily by the Court of law in exercise of its jurisdiction under Article 226 of the Constitution unless the order has been passed in violation of the service rules or it is infected with malice.

8. Be that as it may considering the submissions made hereinabove and the fact that the petitioner is admittedly posted at the place i.e., Panjuana, District Sirsa for the last 15 years since 2008, one cannot choose his place of posting as a matter of right, having served for a long period and as far as challenge to the impugned order is concerned on account of *mala fide*, the petitioner has failed to establish any such action on the part of the respondents.

9. After careful consideration of the matter, this Court is of the view that the present petition lacks merit and is accordingly dismissed.

(SANDEEP MOUDGIL)
JUDGE

17.07.2023

Meenu

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