

2023:PHHC:166574

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-18712-2020 (O&M)
DECIDED ON: 11.09.2023

SHIV RATTAN

...PETITIONER

VERSUS

UHBVN AND ORS.

...RESPONDENTS

CORAM: HON'BLR MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Sunil Kumar Dhanda, Advocate
for the petitioner.

Ms. Suman Rani, Advocate for
Mr. Hitesh Pandit, Advocate for respondents.

SANDEEP MOUDGIL, J

1. The jurisdiction of this Court has been invoked under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of *mandamus* directing the respondents to cancel and modify the order of inter utility transfer dated 29.09.2020 (Annexure P-6) of Shift Attendants vide which junior of the petitioner has been proposed to transfer from UHBVN to DHBVN with a further prayer to consider the petitioner for the inter utility transfer under notification dated 29.07.2019 (Annexure P-1).

2. Learned counsel for the petitioner contends that due to the request and representations being made by the Shift Attendants working in the different districts and posted at far away placed UHBVN has framed certain guidelines regarding inter utility absorption for newly recruited personnels of group-C from UHBVN to DHBVN. In view of the above-said

notification dated 29.07.2019 (Annexure P-1), petitioner has applied for the inter utility transfer of shift attendants recruited against Adv. No. 3/2016 category No.1, SC category on 05.08.2019 and gave option to transfer from UHBVN division to DHBVN division. He further submits that the petitioner had attached all the certificates and affidavit as per the requirement of the notification and in pursuant to his said application, the respondent No.4 i.e. SDO, OP, Sub Division, Madlauda, District Panipat forwarded the same to respondent No.3-XEN, Sub Division, UHBVN Division, wherein the name of the petitioner was mentioned at Sr. No.2 in the said letter, which is annexed at Annexure P-3.

3. Learned counsel for the petitioner asserts that a seniority list as per merit was prepared by the respondent/department and under SC category there were 67 post and petitioner was at Sr. No.513 in the merit list and the persons, who were at Sr. No.514 and 520 being junior to the petitioner and lesser in the merit has been transferred, which is totally illegal, arbitrary and against the transfer policy.

4. To support his contention, he has drawn attention of this Court to the guidelines formulated by UHBVN for inter utility change/absorption dated 29.07.2019 (Annexure P-1) i.e., , wherein it has been held as under:-

“The employee(s) will be adjusted/absorbed against vacancy of respective category (i.e., General/SC/BC etc) only, in case number of employees opting for inter-utility change and consequent absorption is more than the vacancies available, priority shall be given to senior most candidate(s).”

5. Per contra, learned counsel for respondents submits that the case of the petitioner could not be considered for inter utility transfer in terms of

notification dated 29.07.2019 as his application/option for change of utility was not in proper format and he has not submitted any affidavit as per requirement in terms of the above-said notification.

6. Heard, learned counsel for respective parties.
7. In view of the submissions made, this Court is convinced to draw the inference that as per the notification dated 29.07.2019 (Annexure P-1) for inter state utility among the employees, who intends to avail the benefits of above-stated notification shall be fixed on the basis of seniority of parent utility i.e., the candidate senior in parent utility will be senior after absorption irrespective of date of joining i.e., inter-se-seniority as per merit position amongst the candidates of same batch/merit list.
8. Now considering the present case in hand, wherein the petitioner being the senior in the merit list numbered at Sr. No.513, has been illegally and without any reason ignored for the inter-utility transfer, whereas his junior numbered at 514 and 520 has been transferred, which is violative of Articles 14 & 16 of the Constitution of India.
9. Therefore, this court is of the view that the right of the petitioner to which he is legally entitled being higher in merit has been violated and the respondents are directed to consider the claim of the petitioner for transfer from UHBVN to DHBVN within a period of one week from receipt of certified copy of this order.
10. Ordered accordingly.

(SANDEEP MOUDGIL)
JUDGE

11.09.2023
Meenu

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