

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-20889 of 2022 (O&M)

Date of decision: 16.02.2023

Rajinder Pal Singh

..Petitioner

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Gagandeep Singh Sirphikhi, Advocate
for the petitioner.

Mr. R.S.Pandher, Sr. DAG, Punjab

Mr. A.S.Manaise, Advocate
for respondent no.6.

ANIL KSHETARPAL, J(Oral)

C.M.No.2326 of 2023

1. Allowed as prayed for.
2. Annexures A-1 and A-2 are taken on record.

MAIN

3. The petitioner is employed as a Multipurpose Health Supervisor(Male) in the Department of Health and Family Welfare, Punjab. He is aggrieved of his transfer order from Gurdaspur district to Nawanshshar district. The petitioner claims that his wife, who is also working in the Department of Health and Family Welfare, Punjab, is also posted in District Gurdaspur.
4. Previously, the petitioner filed Civil Writ Petition No.16670 of 2022 which was disposed of with the following observations:-

“In view of the above, writ petition is disposed off with

direction to respondent no.3-Director, Health & Family Welfare Department, Punjab, to consider and decide the aforesaid representation by passing a reasoned order within a period of 02(two) weeks from today positively.

Needless to say that in case there is a failure on the part of competent authority, petitioner would be at liberty to move an appropriate application for revival of this writ petition.”

5. In compliance thereof, the Director Health and Family Welfare, Punjab, passed an order on 05.09.2022, while disclosing that the petitioner's stay at Gurdaspur is 2 years 8 month and 15 days.

6. The learned counsel representing the petitioner contends that as per the policy adopted by the State for transferring the employees, preference is required to be given to a couple case so that they can live together. He further submits that 3 to 4 employees, who have a longer stay than the petitioner, have been retained at District Gurdaspur, whereas the petitioner has been transferred to Nawanshahr.

7. This court has considered the submissions of the learned counsel representing the petitioner.

8. The policy to transfer the employees from one place to other is not enforceable before a Court of law. This main purpose of such policies is to guide the officers who are required to pass such orders of transfer of employees. However, such policy does not confer any right in a transferred employee to challenge the same alleging violation thereof. Reference in this regard can be made to **Chief General Manager (Telecom) N.E. Telecom Circle and Another v. Shri Rajendra CH. Bhattacharjee and Others (1995) 2 SCC 532**. In **State of U.P. and Others v. Gobardhan Lal (2004) 11**

SCC 402, the Supreme Court while setting aside the judgment passed by the High Court, observed as under:-

“7. It is too late in the day for any Government Servant to contend that once appointed or posted in a particular place or position, he should continue in such place or position as long as he desires. Transfer of an employee is not only an incident inherent in the terms of appointment but also implicit as an essential condition of service in the absence of any specific indication to the contra, in the law governing or conditions of service. Unless the order of transfer is shown to be an outcome of a mala fide exercise of power or violative of any statutory provision (an Act or Rule) or passed by an authority not competent to do so, an order of transfer cannot lightly be interfered with as a matter of course or routine for any or every type of grievance sought to be made. Even administrative guidelines for regulating transfers or containing transfer policies at best may afford an opportunity to the officer or servant concerned to approach their higher authorities for redress but cannot have the consequence of depriving or denying the competent authority to transfer a particular officer/servant to any place in public interest and as is found necessitated by exigencies of service as long as the official status is not affected adversely and there is no infraction of any career prospects such as seniority, scale of pay and secured

emoluments. This Court has often reiterated that the order of transfer made even in transgression of administrative guidelines cannot also be interfered with, as they do not confer any legally enforceable rights, unless, as noticed supra, shown to be vitiated by mala fides or is made in violation of any statutory provision. 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 the 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”.

9. During the course of hearing, the learned counsel representing the petitioner was given an offer to seek his wife's transfer to Nawanshahar so that they can live together, however, he refused the same.

10. The scope of judicial review in the matters regarding posting and transfer of the employees from one place to another is limited and unless

the transfer orders are made in the arbitrary use of power, the court is expected not to interfere, generally.

11. Keeping in view the aforesaid facts and discussion, this court does not find it appropriate to issue the writ as prayed for.

12. Dismissed.

13. All the pending miscellaneous applications, if any, are also disposed of.

February 16, 2023
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(ANIL KSHETARPAL)
JUDGE

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