

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CWP-17883-2023 (O&M)
Date of Decision:-21.8.2023

Sukhwinder SinghPetitioner

Versus

State of Punjab and others ... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. A.K. Walia, Advocate for the petitioner.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner, who is serving as Assistant Sub Inspector (in local rank) in Punjab Police, challenges his transfer from District Ludhiana (Rural) to District Shaheed Bhagat Singh Nagar on the basis of which a Command Certificate dated 10.8.2023 (Annexure P-5/T) has been issued.
2. Notice of motion had already been issued.
3. Pursuant to issuance of notice of motion, the State has filed its reply by way of affidavit of Shri Hardeep Singh Cheema, PPS, DSP (HQ), Jagraon, District Ludhiana (Rural), which is taken on record.
4. Learned counsel for the petitioner submits that till date the transfer order has not ever been conveyed to the petitioner and straight away a Command Certificate has been issued. Learned counsel, in this regard, has drawn the attention of this Court to a copy of Command Certificate dated 10.8.2023

annexed with the reply filed by State as Annexure R-3/T, wherein the petitioner, while acknowledging the receipt of Command Certificate has specifically stated that a copy of order has not been furnished to him. Learned counsel has further submitted that the transfer order on the face of it is illegal and is punitive and the very first line of the transfer order shows that the transfer order is being passed in a punitive manner. Learned counsel has drawn the attention of this Court to the said transfer order (Annexure R-1/T) annexed with the reply filed by State, which reads as under:

“The following officials are found have links with the accused of intoxicant material and illegal mining. So on the recommendation of Senior Superintendent of Police, Ludhiana (Rural) these employees are transferred to the places as mentioned against their names:

Sr. No.	Name, Rank and Belt No. of the employee	From where	To where
1.	ASI Pahara Singh No.107/Moga	Ludhiana (Rural)	Shaheed Bhagat Singh Nagar
2.	ASI/LR Sukhwinder Singh No.472/LDH (R)	Ludhiana (Rural)	Shaheed Bhagat Singh Nagar
3.	C. Constable Harpreet Singh No.804/LDH (R)	Ludhiana (Rural)	Shaheed Bhagat Singh Nagar
4.	C. Constable Gurwinder Singh No.47/LDH (R)	Ludhiana (Rural)	Shaheed Bhagat Singh Nagar
5.	C. Constable Jaswinder Singh No.994 LDH (R)	Ludhiana (Rural)	Shaheed Bhagat Singh Nagar
6.	Constable Sukhdeep Singh No.683/LDH(R)	Ludhiana (Rural)	Shaheed Bhagat Singh Nagar

2. The above mentioned employees may be relieved and directed them to join at the new place of their posting and their relieving dates/joining dates may be informed to this office.

Sd/-
Dr. Koushtubh Sharma IPS
Inspector General of Police
Ludhiana Range Ludhiana”

5. It has further been submitted that having regard to the allegations levelled in the transfer order, it was incumbent upon the respondents to have issued a

show cause notice to him before passing any such order and in the absence of the same, the transfer order deserves to be set aside.

6. Opposing the petition, learned State counsel has submitted that it is a case where as many as 6 persons were ordered to be transferred by way of impugned transfer order dated 9.8.2023 (Annexure R-1/T) and all the officials transferred were duly informed about the same and were told to collect the copy of transfer order from 'AC-2' Branch office of Senior Superintendent of Police, Ludhiana (Rural) but the petitioner himself did not chose to do so though he did acknowledge the receipt of Command Certificate dated 10.8.2023 (Annexure R-3/T) as has been specifically stated in the reply filed by State. It has been submitted that the transfer order has basically been passed purely in the interest of better administration.
7. This Court has considered rival submissions addressed before this Court.
8. A perusal of transfer order dated 9.8.2023 (Annexure R-1/T) indeed shows that in the very first line the reason assigned therein is that "the officials are being transferred having links with accused indulging in intoxicant material and illegal mining". The said order certainly will have a tendency to be stigmatic. Although the respondents are well within their competence to transfer an employee for administrative reasons or for any reason as found justifiable, but recording such like remarks is certainly not called for as the same could stigmatic without such employee having been afforded a chance to refute the same. As such, it is clarified that the aforesaid remarks regarding the employee having links with accused indulging in intoxicant material and illegal mining shall not be taken to be adverse or stigmatic in any manner against the employee.

9. As far as contention of the petitioner that transfer order has not been served to him is concerned, although the respondents in the reply have taken a stand that the petitioner himself did not come forward to collect a copy of the transfer order, but in any case, since the said question would be a disputed question, the instant petition is disposed of with a direction to the respondents to consider the present petition itself as a representation and to pass a speaking order on the same.
10. Mr. Inderpreet Singh Kang, AAG, Punjab has assured that a copy of present petition as well as copy of this order shall be conveyed to the authority concerned i.e. to respondent No.2 – The Inspector General of Police, Ludhiana Range, Ludhiana to enable him to pass appropriate orders in this regard.
11. Mr. Malkit Singh, Assistant Sub Inspector, Ludhiana (Rural), who is present in Court, is directed to ensure that respondent No.2 – The Inspector General of Police, Ludhiana Range, Ludhiana is duly informed about the aforesaid order.

21.8.2023

pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No