

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-6161-2018 (O&M)

Decided on 15.11.2023

HUDA Karamchari Sangh

... Petitioner

VS.

State of Haryana & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Ramesh Goyat, Advocate for the petitioner

Mr. SS Mann, Addl. AG Haryana

Ms. Shubhra Singh, Advocate for respondents No.2&3

Sandeep Moudgil, J.

The petitioner has filed the instant writ petition under Article 226 of the Constitution for issuance of a writ in the nature of certiorari for quashing of the order dated 29.11.2017 (Annexure P3) and to direct the respondents not to transfer its employees by way of deputation in the office of respondent No.3 – The Chairperson, Gurugram Metropolitan Development Authority.

Learned counsel for the petitioner has contended that vide the impugned order dated 29.11.2017 (Annexure P3), the Executive Engineer, HSVP Division No.2 & 3, Gurugram including Master Water Supply System, Water Treatment Plant, Sewerage Treatment Plant alongwith Sub Divisional Engineers and Junior Engineer with subordinate staff has been transferred to respondent No.3 – The Chairperson, Gurugram Metropolitan Development Authority w.e.f. 31.10.2017 on deputation basis till further orders and as such the order of deputation has been passed in violations of provisions of HSVP Act, 1977 and no transfer scheme for employees, property as provided in

GMDA Act, 2017 has been framed. It is further averred that no consent of its transferee-employees has been taken by respondent No.2 and moreover the purpose for transfer on deputation basis of the employee was not specified though as per HUDA Act, 1977 and the rules and regulations framed thereunder, there is a provision of deputation transfer of its employees to its branch or office or unit situated in the State.

Written statement has been filed by the respondents controverting the pleadings raised on behalf of the petitioner by stating that as per Rule 8(20) of the Haryana Civil Services (General) Rules, 2016, the consent of the employee is required only if the employee is required to be sent on deputation to Central Government or any other State whereas in the present case, members of the petitioner are being transferred on deputation to another statutory authority in the State Government itself, in public interest. It is also averred that the transfer on deputation of members of the petitioner has been ordered as per the provisions of HSVP Service Regulation/relevant rules, as such no constitutional right of the petitioner has been infringed.

The Supreme Court in **Shilpi Bose and Others v. State of Bihar and Others 1991 Supp.(2) SCC 659** went into in the issue of guidelines and has upheld the authority of the employers to transfer the employee and held the Courts should not interfere with a transfer order which are made in public interest and for administrative reasons unless the transfer orders are made in violation of any mandatory statutory rule or on the ground of mala fide and that even if a transfer order is passed in violation of executive instructions or orders, the Courts ordinarily should not interfere with the order instead

affected party should approach the higher authorities in the Department. If the Courts continue to interfere with day-to-day transfer orders issued by the Government and its subordinate authorities, there will be complete chaos in the Administration which would not be conducive to public interest.

It is more than *stare decisis* that transfer is an incidence of service and it is for the executive/administration to decide how to and where to use its employees subject to the conditions of their appointment in the best interest of the organization and public service. It is not always possible and feasible to record strong reasons for allowing an officer to continue at a particular station for a few years or more or less. There is no gainsaying that the attitude, tendency and stimulation in life differs from person to person. Likewise, the attitude of all the employees towards service may not be same. In the circumstances, the authorities are bound to give different treatment to their employees in utilizing his/her services. Said different treatment cannot be called discriminatory or arbitrary each time. Giving such different treatment may also be one of the exercises of fairness only. An officer discharging his duty with all devotion, dedication and involvement, giving 100 per cent out put, may be desired to be kept posted at same station for a longer period, while at the same time, some other officer performing his job half-heartedly with lesser devotion, maybe shifted to a different station either to a place where he can work with better devotion or to a place where even lesser level of sincerity and devotion may not be detrimental to the organization. All these are the factors which may be observed by the concerned authority in day to day affairs and not by the Courts/Tribunal. It is

for these reasons that Hon'ble Supreme Court has repeatedly emphasized that the Courts or Tribunals should refrain from interfering with transfer matters.

Accordingly, this Court does not find any ground much less valid, legal or justified to interfere with the impugned transfer order.

Dismissed.

15.11.2023

V.Vishal

- 1. Whether speaking/reasoned?*
- 2. Whether reportable?*

(Sandeep Moudgil)
Judge

Yes/No
Yes/No