

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

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CWP-18560-2023

Date of Decision: 24.08.2023

Vikas Verma

...Petitioner

Versus

Union of India and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Vishal Yadav, Advocate for the petitioner

Mr. Shivoy Dhir, Senior Panel Counsel,
for Union of India-respondents

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 16.08.2023 (Annexure P-7) and order dated 18.08.2023 (Annexure P-8) whereby request of the petitioner to cancel his transfer has been declined and he has been posted at Lucknow.

2. Learned counsel for the petitioner *inter alia* contends that petitioner was appointed as Constable in Railway Protection Force on 18.09.2010. The wife of the petitioner is posted in Haryana Police. The petitioner on the basis of couple case was transferred from Central Railways to Northern Railways. The petitioner was posted at Ambala vide order dated 09.04.2021 (Annexure P-3). The petitioner, all of sudden, was relieved vide order dated 11.11.2022 (Annexure P-4). The petitioner preferred *CWP No.26581 of 2021* before this Court which was disposed of vide order dated 27.07.2023 (Annexure P-5) with liberty to the petitioner to file representation

and direction was issued to the respondents to pass an appropriate order. The respondent vide order dated 16.08.2023 (Annexure P-7) has rejected representation of the petitioner and vide communication dated 18.08.2023 (Annexure P-8) he has been asked to join at Lucknow. The petitioner has been relieved. The petitioner was transferred on the basis of posting of his wife and without any reason, all of sudden, he has been transferred from Ambala to Lucknow which is contrary to policy of the respondent governing transfer.

3. I have heard the arguments of learned counsels for the petitioner and perused the record with his able assistance.

4. From the perusal of impugned order, it comes out that petitioner has been transferred in terms of policy and the competent authority has returned a specific finding that petitioner has been transferred on account of his indiscipline act and several misconducts in his professional and personal life.

5. It is settled proposition of law that it is the prerogative of the employer to post its employees as per its choice. No employee can claim posting at a particular place. The Courts are not supposed to interfere in the transfer orders until and unless there is grave miscarriage of justice or abuse of process of law.

6. The Hon'ble Supreme Court in ***Punjab and Sind Bank and Others Versus Durgesh Kuwar; (2020) 19 SCC 46***, while dealing with question of transfer has held that an employee cannot have a choice of posting. Administrative circulars and guidelines are indicators of the manner in which the transfer policy has to be implemented. An administrative circular

does not confer a vested right which can be enforced by writ of mandamus.
The relevant extract of the said judgment read as:-

“17. We must begin our analysis of the rival submissions by adverting to the settled principle that transfer is an exigency of service. An employee cannot have a choice of postings. Administrative circulars and guidelines are indicators of the manner in which the transfer policy has to be implemented. However, an administrative circular may not in itself confer a vested right which can be enforceable by a writ of mandamus. Unless an order of transfer is established to be mala fide or contrary to a statutory provision or has been issued by an authority not competent to order transfer, the Court in exercise of judicial review would not be inclined to interfere. These principles emerge from the judgments which have been relied upon by the appellants in support of their submissions and to which we have already made a reference above. There can be no dispute about the position in law.”

7. In view of above cited judgment of Hon’ble Supreme Court in *Punjab and Sind Bank (supra)*, this Court does not find it appropriate to invoke its extraordinary writ jurisdiction, thus, the petition stands dismissed.

(JAGMOHAN BANSAL)
JUDGE

24.08.2023
Mohit Kumar

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