

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

CWP-20394-2023

Date of decision : 04.10.2023

Amritpal Singh

...Petitioner

Vs.

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Dhiraj Chawla, Advocate for the petitioner.

Mr. Gaurav Garg Dhuriwala, Addl.A.G.Punjab.

Mr. Sanjeev Soni, Advocate for respondent No.2.

DEEPAK MANCHANDA, J.(Oral)

1. By way of this petition, the petitioner has challenged the order dated 29.08.2023 (Annexure P-3), whereby he has been transferred from Patiala to Hoshiarpur against the Punjab Government Instructions/Policy for Transfers and Postings dated 23.04.2018 (Annexure P-1).

2. The facts emanating from the pleadings are that the petitioner remained in-charge of the demolition wing as Assistant Trust Engineer and remained posted at various stations, but within one year he was transferred five times from different places as has been mentioned in the present petition in para 5 against the transfer policies dated 23.04.2018 and 10.04.2023 (Annexures P-1 and P-2). As per pleadings some allegations of *malafide* have

been made against the sitting minister of the Punjab Government for transferring the petitioner from present posting to another place as he intentionally did not obey the orders of the concerned minister, who asked the petitioner to do some favors about sanctioning of one plan of a building, which he did not accept and ignored, hence, the petitioner's transfer is a result of disobedience, who did not surrender for accepting the commands of the said Minister of the State.

3. Learned counsel for the petitioner contends that since there is no complaint regarding the work and conduct of the petitioner, therefore, the impugned transfer order is illegal, unconstitutional and violative of government policy instructions. He also contends that there is no administrative exigency or public interest involved therefore, the transfer of the petitioner is against the principle of Articles 14 and 16 of the Constitution of India as well as the settled proposition of law and relies upon the judgment passed in CWP No. 11172 of 2005 decided on 29/09/2005 wherein, it has been held that once the government framed the policy, it cannot plead that the same is not mandatory and is bound to follow the same. The government can deviate from the terms of the policy only for sufficient reasons to be recorded or in the paramount public interest. He also contends that as per policy, no Group A and B officer will remain posted at one station continuously for more than five years. If any of the officer remained posted at one station continuously for more than three years, then he will not be posted again at the station at least before the gap (cooling off period) of two years whereas in the present case, the said principle has not been followed by the respondents and has prayed for quashing of the impugned transfer order.

4. Per contra learned State counsel while referring to the short reply dated 22.09.2023 submits that the mid term transfers and postings can be made even after the complete ban on the transfers in the calendar year after the approval of the Chief Minister. He also submits that in the present case, on 17.08.2023, the Administrative Secretary after obtaining approval from the Local Government Minister transfer of 49 officers/officials giving initiative circumstances and in public interest approved the transfer orders on 28.08.2023, and referring to Clause 4 of the policy, which has been reproduced in the reply also stating therein that only in cases of extraordinary circumstances, the mid-term transfer can be made through Personal Department with the prior approval of Chief Minister. He further submits that the petitioner has been transferred for better administration as there was no regular Assistant Trust Engineer at Hoshiarpur and relies upon the judgment passed by this Hon'ble Court in a case titled as “**Barinder Singh versus State of Punjab and others**” 2021 (2) SCT 747 and also on Division Bench of this Court in “**Parveen Kumar Vs. State of Punjab and others**” passed in CWP-1798 of 2008 decided on 03.10.2008 and other various judgments mentioned in the reply.

5. I have heard learned counsel for the parties.

6. Learned counsel for the petitioner is not able to substantiate the allegation of *mala fide* against the State Minister. It is settled law that the transfer ordinarily is an incidence of service, and the Courts should be very reluctant to interfere in it. The impugned transfer order as long as is not clearly illegal in particular, this Court is of the opinion that transfer and postings are the discretion of the concerned State authorities, which are in the best position

to assess the necessities of the administrative requirements of the situation. The administrative authorities concerned may be of the opinion that the petitioner is required in any particular district and/or another range than in another, depending upon his assessment of the law and order situation and/or other considerations. This is purely an administrative matter, and it is well settled that Courts must not ordinarily interfere in administrative matters and should maintain judicial restraint.

7. Now, advertent to the first ground regarding transfer being a colourable exercise of power and not on account of administrative exigency, suffice it to say that the petitioner apart from levelling general allegations has failed to substantiate the same. Even during the course of the hearing, the petitioner could not elaborate on allegations of *mala fides*.

8. As regards second ground regarding transfer being illegal on the premise that the petitioner is to retire in 2026 has not much substance to convince, as noticed above, the petitioner has been working regularly thus, liable to be transferred even in a normal course. The petitioner is holding a responsible post and it is for his employer to take a decision on how best to utilize his services and extract work from him. The case of the petitioner, when considered in light of the law laid down by the Hon'ble Supreme Court for the last scores of years, does not fall in any one of the exceptions, which may call for any interference by this Court as the transfer in the present case has been ordered in the administrative exigency and in the public interest and the alleged *mala fides* have not been established and proved on record. The transfer otherwise is not in violation of any statutory provision nor the same can be termed to be punitive. Therefore, this Court does not find any merit in the writ

petition, and the same is accordingly dismissed.

9. Pending application(s), if any, also stand(s) disposed of.

(DEEPAK MANCHANDA)
JUDGE

04.10.2023
vanita

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No