

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

**CWP-23827 of 2023
Date of decision : December 07, 2023**

JWO Ajay Prakash

..... Petitioner

Versus

Union of India and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Sunil Kumar Nehra 'Sirsa', Advocate
for the petitioner.

Mr. Sunil Kumar Sharma, Senior Panel Counsel for
Mr. Lalit Kumar Attri, Central Govt. Counsel
for Union of India.

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Article 226 of the Constitution of India is seeking setting aside of order dated 07.08.2023 and 11.09.2023 (Annexure P-4) whereby petitioner has been transferred from Chandigarh to Nal Air Force. The petitioner is further seeking setting aside of order dated 13.10.2023 (Annexure P-6) whereby representation of the petitioner has been rejected.

2. Learned counsel for the petitioner submits that normal tenure of an officer at one place is five years whereas petitioner has been transferred even before completing four years. The father of the petitioner has passed away and mother of the petitioner is staying with him. She is suffering from age related ailments, thus, she needs regular treatment. There are five posts of Dog Handler and five posts of JWO at Chandigarh. The petitioner may be appointed as JWO

at Chandigarh because out of five sanctioned posts, three are lying vacant. The petitioner is going to retire in June'2025, thus no prejudice is going to be caused to the respondents if petitioner is retained at Chandigarh.

3. Per contra, learned counsel for the respondents submits that it is factually incorrect that there are five posts of Dog Handler and five posts of JWO at 12 Wing, Air Force Station, Chandigarh. There are two posts of Dog Handler and three posts of JWOs at 12 Wing, Air Force Station, Chandigarh. None of the aforesaid posts is lying vacant, thus, petitioner cannot be adjusted. In support of his contention, learned counsel for the respondents produced a confidential document disclosing strength of staff at 12 Wing, Air Force Station, Chandigarh. He further submits that if transfer of the petitioner is cancelled, it would create a bad precedent and no officer would be ready to accept transfer on personal or family ground. Moreover, officers cannot be given place of posting of their choice. The respondent being Armed Force is bound to maintain discipline as well as keep in mind security of the Country while posting its officers.

4. From the perusal of confidential document perused during the course of hearing, it comes out that there are two posts of Dog Handlers and three posts of JWOs at 12 Wing, Air Force Station, Chandigarh. The document after perusal is returned to learned counsel for the respondents.

5. A three Judge Bench of Hon'ble Supreme Court in '**Major General J.K. Bansal Vs. Union of India and others**' (2005) 7 SCC 227 has held that scope of interference by the courts in regard to transfer of members of armed forces is far more limited and narrow than transfer of civilian employees or those who are working in public sector undertakings. The relevant extract of

the judgment reads as:

“11. Similar view has been taken in National Hydroelectric Power Corporation Ltd. vs. Shri Bhagwan and another (2001) 8 SCC 574, wherein it has been held that no Government servant or employee of a public undertaking has any legal right to be posted forever at any one particular place since transfer of a particular employee appointed to the class or category of transferable posts from one place to another is not only an incident, but a condition of service, necessary too in public interest and efficiency in the public administration. Unless an order of transfer is shown to be an outcome of malafide exercise of power or stated to be in violation of statutory provisions prohibiting any such transfer, the courts or the tribunals cannot interfere with such orders, as though they were the appellate authorities substituting their own decision for that of the management.

12. It will be noticed that these decisions have been rendered in the case of civilian employees or those who are working in Public Sector Undertakings. The scope of interference by courts in regard to members of armed forces is far more limited and narrow. It is for the higher authorities to decide when and where a member of the armed forces should be posted. The Courts should be extremely slow in interfering with an order of transfer of such category of persons and unless an exceptionally strong case is made out, no interference should be made.”

6. The petitioner has been transferred to Nal which is adjoining to Bikaner. The petitioner can get his mother treated from hospitals at Bikaner as

entitled, without attendant, treatment at any of the military hospital. The petitioner has been transferred from Chandigarh to Nal as per requirement of the respondent. This Court neither can substitute opinion of the respondent-authorities nor can decide the place of posting of their officers.

7. Dismissed.
8. The dismissal of the present petition would not inhibit the respondents from considering representation, if any, filed by the petitioner.

(JAGMOHAN BANSAL)
JUDGE

December 07, 2023

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