

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

CWP-1271-2024

Date of decision: 20.01.2024

SUNIL KUMAR TUNDWAL

....PETITIONER

Vs.

UNION OF INDIA AND ORS.

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Aditya Yadav, Advocate
for the petitioner.

Mrs. Madhu Dayal, Advocate
for the respondents-SBI.

JAGMOHAN BANSAL, J (ORAL)

1. The petitioner through the instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 12.12.2023 (Annexure P-10) whereby request of petitioner to continue him on the same post of Manager at Rewari has been rejected and he has been asked to join at Jind.

2. This is second round of litigation. The petitioner on the earlier occasion preferred CWP No. 22989-2023 before this Court which came to be disposed of vide order dated 02.11.2023. The order dated 02.11.2023 reads as under:-

“2. Learned counsel for the petitioner submits that as per policy of respondent-bank, petitioner cannot be transferred within 5 years from one region to another region. The petitioner has been transferred from Rewari region to Jind within less than 05 years. The wife of the petitioner is working as Nurse at Rewari. She is working with State Government. The petitioner is suffering chronic disease of Ulcerative Colitis. In view of said disease, the petitioner is not advised to get food from outside and if petitioner is

posted at Jind, he would be forced to take food from outside. He further submits that the petitioner is ready to work on the lower post at Narnaul.

3. *Per contra, learned counsel for the respondent submits that it is a case of general transfer of 205 and 45 persons have been transferred out of zone. Any accommodation to petitioner would disturb the entire transfer process. The petitioner cannot be posted at a lower post because it would create a lot of administrative issues. Nevertheless, she submits that petitioner is at liberty to move an appropriate representation which would be sympathetically considered by the competent authority.*

4. *Faced with this, learned counsel for the petitioner submits that he would submit representation which respondent may consider in a time bound manner.*

5. *In the wake of statement of both sides, the petition stands disposed of. The respondent shall consider representation of the petitioner sympathetically.”*

3. The respondents pursuant to aforesaid order has passed order dated 12.12.2023 whereby despite concluding that petitioner deserves sympathy, representation of the petitioner has been rejected on the ground that there is need of scale III officer in Chandigarh Circle.

4. It is settled proposition of law that it is 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.

5. The 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 extracts 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.”

6. Considering the factual matrix and above cited judgment of Supreme Court in **Durgesh Kuwar (Supra)**, this Court does not find it appropriate to invoke its extraordinary writ jurisdiction, thus, the petition is hereby dismissed.

20.01.2024
manoj

[JAGMOHAN BANSAL]
JUDGE

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