

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

126

CWP-1738-2024
Date of Decision: 01.02.2024

Daljit Singh @ Daljit Kumar ...Petitioner

Versus

State of Punjab and others ...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr.Tejinderbir Singh, Advocate
for the petitioner.

Mr. Aman Dhir, DAG, Punjab.

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 16.01.2024 (Annexure P-5) whereby he has been transferred from Hoshiarpur to Jalandhar Rural.
2. The petitioner is working with respondent-department as Assistant Sub-Inspector. He is in service since 1990 and he is going to attain age of superannuation within next 18 months. The petitioner has been transferred from District Hoshiarpur to District Jalandhar. FIR No.12 dated 28.07.2022 came to be registered against the petitioner under Section 7 of PC Act at Police Station Vigilance Bureau, Jalandhar Range. The department initiated departmental inquiry against the petitioner which was closed vide order dated 15.07.2023 passed by SSP, Hoshiarpur.

3. As confirmed by learned State counsel, the police till date has not filed *challan*. The jurisdictional SSP vide impugned order dated 16.01.2024, in compliance of directions issued by Chief Director, Vigilance Bureau, SAS Nagar has transferred the petitioner from Hoshiarpur to Jalandhar.

4. Learned counsel for the petitioner *inter alia* contends that petitioner is working with respondent-department as Assistant Sub-Inspector. The petitioner as per Rule 14.15(5) of Punjab Police Rules, 1934 (for short 'Rules') cannot be transferred outside the District because criminal proceedings have been instituted against him. The left over service of the petitioner is less than 2 years and as per general practice an employee having service of less than 2 years is not transferred.

5. Learned State counsel submits that criminal case is still under investigation though the petitioner has been exonerated in departmental proceedings. The transfer order cannot be cancelled on the ground that remaining service of the petitioner is less than 02 years.

6. Having heard arguments of both sides and scrutinized the record, this Court finds substance in the arguments of the petitioner. The petitioner is governed by Punjab Police Rule, 1934. Rule 14.15 of the Rules deals with transfer and posting of police officials. Sub-Rule (5) of Rule 14.15 of the Rules mandates that a police officer shall not be transferred

from one district to another against whom criminal proceedings have been instituted. Sub-rule (5) of Rule 14.15 is reproduced as below:

14.15. Postings and transfers - liability to and authority for. – xxxxxxxx

(5) No police officer against whom criminal proceedings have been instituted shall be transferred to another district until the final order is passed in respect of such proceedings.

7. It is settled proposition of law that in transfer matters, Court should tread warily, however, there is no absolute bar to invoke writ jurisdiction in such matters. The petitioner, in the case in hand, has been transferred from one district to another and jurisdictional SSP has transferred on the direction of Vigilance Bureau. This Court doubts whether jurisdictional authority can transfer an officer, on the direction of another department. The State has not produced any rule or notification which permits or directs the jurisdictional officer to exercise power on the directions of officer of another department.

8. The police has registered FIR against the petitioner and the matter is still under investigation. Sub-Rule (5) of rule 14.15 is not directly applicable to petitioner because criminal proceedings till date have not been instituted. There is only FIR against the petitioner and the matter is still under investigation. The petitioner is going to retire within next 18 months. He has already been exonerated in departmental proceedings.

9. Considering the totality of facts and circumstances, this Court finds it appropriate to set aside impugned order dated 16.01.2024 (Annexure P-5) and direct the jurisdictional officer to reconsider the matter.

10. In view of the above, the present petition stands disposed of.

01.02.2024

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**(JAGMOHAN BANSAL)
JUDGE**

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>