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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-2015-2024
Date of Decision:16.05.2024

FOOD CORPORATION OF INDIA EXECUTIVE STAFF UNION

..... Petitioner

Versus

UNION OF INDIA AND ORS.

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Anurag Chopra, Advocate and
Mr. Nikhil Sabharwal, Advocate
for the petitioner.

Mr. K.K. Gupta, Advocate
for the respondents No.2 to 7.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of circular dated 27.03.2023 (Annexure P-5) whereby respondent has issued a “Standard Operating Procedure for deployment of quality control staff in procurement operations” (for short ‘ SOP’). He is further seeking setting aside of various orders whereby Technical Assistants have been posted from one depot to another depot on weekly basis.

2. The petitioner is an Association of employees of Food Corporation of India (for short ‘FCI’). Vide circular dated 22.03.2021, respondent-FCI framed a comprehensive transfer policy. The respondent vide circular dated 27.03.2023 has issued a circular titled as “SOP for



deployment of quality control staff in procurement operations”. The circular provides for rotation of Technical Assistants. As per said SOP, where more than one rice mills are tagged with any specific depot, the Technical Assistants will invariably be shifted after completion of one stack of any specific rice miller within the depot. Even otherwise Technical Assistants (quality control) will be changed after 15 days from one Shed/Unit to another within the same depot/Rice Receipt Center. The relevant extracts of SOP are reproduced as below:

“SOP for deployment of QC Staff in Procurement Operation

- 1. All the Technical Assistants and Manager (QC) deployed for procurement shall be rotated frequently to avoid development of any vested interest.*
- 2. These rotations will be done through specialized software / HRMS.*
- 3. Where more than one Rice Mills are tagged with any specific depot, the TA will invariably be changed after completion of one stack of any specific rice miller within the depot. Even otherwise the TA/ M (QC) will be changed after 15 days from one Shed/ Unit to the other within the same depot/ Rice Receipt Center (RRC).”*

3. Mr. Anurag Chopra, Advocate submits that impugned SOP is contrary to transfer policy of 2021. It is discriminatory in nature. As per SOP, only Technical Assistants are shifted after every stack whereas senior officials who are also concerned with quality control are not shifted. The respondent has introduced modern electronic system for receipt of food grain, thus, human intervention is minimal. The respondent has not implemented impugned SOP in the State of Haryana because authorities at Haryana have formed an opinion that in view of introduction of electronic system, human intervention is minimal, thus,



there is no need to implement impugned SOP. The shifting of employees after every stack is causing inconvenience because staying at another place after every week is most inconvenient. It is difficult to arrange boarding and lodging at different places. He further submits that if Technical Assistants are shifted within depot as per SOP, the petitioner would have no grievance and would not press challenge to the impugned SOP.

4. Per contra, Mr. K.K. Gupta, Advocate submits that Technical Assistants are directly concerned with receipt of food grain. With intent to bring transparency, the impugned SOP was introduced. As per SOP, Technical Assistants are not transferred whereas they are simply deployed at different places after receipt of one stack in one depot. As per SOP, the respondent has deployed different Technical Assistants at different places. The impugned SOP permits to deploy one Technical Assistant at another depot after receipt of one stack in one particular depot e.g. if a Technical Assistant has received one stack at Garhshankar, he would be posted in any other city for a period of 6-7 days. The deployment of Technical Assistants at different places is basically on tour basis and it cannot be called as transferred. With respect to non-implementation of SOP in the State of Haryana, he submits that management has decided to implement SOP across the country. The respondent has constituted a Committee to examine the difficulties faced by Haryana region which compelled it not to implement the said SOP.

5. I have heard the arguments of both sides and with the able assistance of learned counsels have perused the record.

6. The conceded position emerging from record is that the



respondent in order to make the procurement operation more transparent and to avoid development of any vested interest has issued impugned SOP which provides for rotation of procuring staff. As per SOP, Technical Assistants deployed for procurement shall be rotated frequently. The rotation will be done through specialized software. Where more than one rice mills are tagged with a specific depot, the Technical Assistants will invariably be changed after completion of one stack of any specific rice miller within the depot.

7. For the sake of convenience and better understanding clause 3 of the SOP at the cost of repetition, is reproduced as below:

“3. Where more than one Rice Mills are tagged with any specific depot, the TA will invariably be changed after completion of one stack of any specific rice miller within the depot. Even otherwise the TA/ M (QC) will be changed after 15 days from one Shed/ Unit to the other within the same depot/ Rice Receipt Center (RRC).”

From the perusal of aforesaid Clause 3, it is quite evident that where more than one rice mills are tagged with a specific depot, Technical Assistants will be changed. Meaning thereby, if there is only one rice mill tagged with a depot, the Technical Assistants shall not be rotated. The said clause further provides that rotation would be within the depot. The last part of the said clause further provides that they will be changed after 15 days from one Shed/Unit to other within the same depot/Rice Receipt Center. The members of the petitioner have been transferred from one depot to another depot which is evident from impugned office orders. For the ready reference, office order dated 15.11.2023 (Annexure P-8) is reproduced as below:

**Office Order**

In compliance to SOP for “Rotation of QC staff in procurement operations” issued by FCI Hqrts letter No.FCI HQ-QC 035(12)/1/2022-QC Dt. 27.03.2023, Sh. Sumer Singh, AG-II (Technical), FSD Balachaur is deputed on tour basis of FSD-Garhshankar with an immediate effect for acceptance of rice till completion of one stack of any specific rice miller within depot or upto 15 days from date of order whichever is earlier.

He is directed to report for duty to Manager (QC) FSD Garhshankar for further deployment.

Normal TA/DA will be regulated as per existing circular.

This issues with the approval of Divisional Manager.

8. By aforesaid office order, one Technical Assistant who was posted at Food Search Depot, Balachaur has been deputed on tour basis to Food storage Depot, Garhshankar. Meaning thereby, the official has been shifted on tour basis from one depot to another depot. The office order has been issued, in compliance to SOP dated 27.03.2023 (Annexure P-5). The official has not been deputed in terms of transfer policy or any other rule/regulation governing service of the officials. He has been shifted from one depot to another depot in terms of SOP.

9. From the reading of impugned SOP, it is evident beyond the pale of doubt that a Technical Assistant has to be shifted within depot on completion of receipt of one stack of a rice miller. The SOP provides for shifting within depot and it does not provide for shifting from one depot to another depot. The respondent misreading the SOP has shifted Technical Assistants from one depot to another depot.

10. In the wake of above discussion and findings, it is hereby held that respondent as per impugned SOP has right to rotate a Technical Assistant within depot on completion of receipt of one stack of a rice

millar. No Technical Assistant can be shifted from one depot to another depot in terms of impugned SOP. The respondent has right to post its officer at any place subject to applicable rules, regulations and transfer policy.

11. It is hereby made clear that the above observations of this Court are confined to impugned SOP.
12. Disposed of in above terms.

(JAGMOHAN BANSAL)

JUDGE

16.05.2024

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