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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-2237-2024
Date of Decision: 29.02.2024

Kashik Mann

..... Petitioner

Versus

Uttar Haryana Bijli Vitran Nigam Limited and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Anurag Goyal, Advocate
for the petitioner.

Mr. Puneet Jindal, Senior Advocate assisted by
Mr. Rahul Bansal, Advocate,
for respondent Nos.1 & 2.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present is a writ petition filed under Article 226 of the Constitution of India for issuance of a writ in the nature of *certiorari* for quashing the impugned transfer order dated 24.01.2024 (Annexure P-2) whereby the petitioner has been transferred from Karnal to Panchkula merely after a period of 9 months only, which is against the Transfer Policy, 2012 (Annexure P-1) wherein it has been stipulated that the minimum period for continuous service on the post shall be three years and further, it has been stipulated that any official who has less than one year or lesser service before his retirement, shall not be transferred from his station and further, the same is arbitrary, illegal and violative of the Constitution of India.
2. The brief facts of the present case are that the petitioner is working as Superintending Engineer in the respondent-Nigam and he was posted at Karnal. Prior to his posting at Karnal, he was posted at Kaithal and

while he was posted at Kaithal, he moved a representation dated 02.09.2022 to the respondent-Nigam vide Annexure R-1/3 for he being posted as Superintending Engineer in Karnal by giving a reason that he has to look after his 90 years old father and his wife generally remains ill. Due to unavoidable circumstances, he cannot shift his family at Kaithal and it is his mandatory family obligation to personally take care of his 90 years old father and other family members along with performing of his professional responsibilities. The relevant portion of the aforesaid representation/letter (Annexure R-1/3) is reproduced as under:-

*“It is respectfully submitted that the undersigned at present is posted as Superintending Engineer ‘OP’, UHBVL, Kaithal. My family is residing at Karnal. I have to look after my 90 year old father and my wife generally remains ill. Due to some unavoidable circumstances, I cannot shift my family at Kaithal. **It’s my mandatory family obligation to personally take care of my 90 year old father and other family members with performing my professional responsibility.***

In view of the above circumstances, it is humbly requested that the undersigned may kindly be posted as Superintending Engineer ‘OP’ Circle, UHBVNL, Karnal.”

3. Thereafter, on the basis of the aforesaid letter, the petitioner was transferred and posted from Kaithal to Karnal vide orders dated 19.04.2023 (Annexure R-1/2). In this way, the petitioner got posted at Karnal in April, 2023 and was continuing as such on that post. The petitioner is scheduled to retire on 30.11.2024 on attaining the age of superannuation and only 9 months are left that vide impugned order dated 24.01.2024 (Annexure P-2),

the aforesaid order was passed by stating that the transfers and postings are ordered on administrative grounds with immediate effect. The aforesaid impugned order dated 24.01.2024 is also reproduced as under:-

“UTTAR HARYANA BIJLI VITRAN NIGAM LIMITED
(A Power Distribution & Retail Supply Utility, Govt. of Haryana)
Plot No.: IP-3&4, Sector-14, Panchkula, Haryana
Web Site:www.uhbn.org.in , CIN
U40109HR1999SGC034166.
[E-mail id: ushrii@uhbn.org.in](mailto:ushrii@uhbn.org.in)

Office Order No.08 /UH/HR-II Dated: 24.01.2024

The following transfers and postings are hereby ordered on administrative grounds with immediate effect:-

Sr. No.	Name of the officers & place of posting	Proposed Posting	Remarks
1.	Sh. Naseeb Singh, SE (awaiting posting order) (HRMS: 7HF2F4)	SE/Civil Const., UHBNL, Panchkula.	By relieving Sh. V.K. Goyal, SE/OP Circle, Ambala from the said charge.
2.	Sh. Dharam Suhag, SE (awaiting posting order) (HRMS:4D1FEF)	SE/OP Circle, UHBNL, Karnal.	Vice Sr. No. 3 below
3.	Sh. Kashik Mann, SE/OP Circle, UHBNL, Karnal (HRMS: 9S181E)	SE/Energy Audit, UHBNL, Panchkula.	Against Vacant post
4.	Sh. S.K. Dhull, SE/EA, UHBNL, Panchkula having additional charge of SE/RA, Panchkula (HRMS: ET6BF3)	SE/RA, UHBNL, Panchkula.	Against overall vacancy

Note: The above officers should join their new place of posting without availing any joining time.

1. In case handing/taking over report of above officers are not received within 7 days, their pay may be withheld by the CAO (P&A) till the compliance of orders is made.
2. The relinquishing and assuming report of charge alongwith order of posting be uploaded by the individual them-self on their Intra Haryana Accounts (intra.hry.gov.in).
3. The pay of Sh. Dharam Suhag, SE shall be charged against the vacant post of Chief Engineer in UHBNL.

This issues with the approval of the Managing Director, UHBNL, Panchkula.

Sd/-

Under Secretary/HR-II (G),
for CGM/Admn., UHBNL, Panchkula
E-mail ID ushrii@uhbn.org.in

4. By way of the same order dated 24.01.2024 as reproduced above, respondent No.3, namely, Dharam Suhag, who was awaiting his posting order on his promotion, was posted at Karnal where the petitioner was earlier posted. The aforesaid Sh. Dharam Suhag is at Serial No.2 and the petitioner, namely, Sh. Kashik Mann, is at Serial No.3. The petitioner has challenged the present impugned order dated 24.01.2024 and this Court while issuing notice of motion had also passed interim order by which the operation of the aforesaid transfer order was directed to be stayed till the next date of hearing.

5. The learned counsel appearing on behalf of the petitioner submitted that the aforesaid impugned transfer order dated 24.01.2024 (Annexure P-2) was not only violative of Transfer Policy dated 13.09.2012 which has been attached along with the present petition as Annexure P-1 but apart from the above, the transfer of the petitioner was effected as a result of malice in order to accommodate respondent No.3 in the same District where he was earlier working as an Executive Engineer and was promoted and he got his first posting as a Superintending Engineer in Karnal and since respondent No.3 was to be accommodated, the petitioner was transferred out from Karnal and was directed to be posted at Panchkula Headquarter notwithstanding the Transfer Policy to the contrary and notwithstanding that about few months ago he was rather transferred to Karnal because of his family difficulties and the request of the petitioner was accepted by the Nigam and on the basis of acceptance of the request of the petitioner, he was posted at that particular place and now when he was scheduled to retire in about 9 months time, he has been uprooted.

6. Learned counsel for the petitioner further submitted that transfer is an incident of service and also submitted that there is no dispute on the proposition of law that in administrative exigencies the power can be exercised by the competent authority to transfer any of the employees but the exercise of

power cannot be arbitrary and due to extraneous reasons. He submitted that the Transfer Policy although may not be having a statutory force, but once it has been framed by the respondent-Nigam and it was being given effect to in various other transfers then there was no reason for making a departure from the aforesaid Transfer Policy.

7. He also submitted that the petitioner has not disputed the power of the respondent-Nigam to transfer any employee due to administrative exigencies but he has raised challenge to the exercise of power which is tainted by legal malice.

8. To substantiate his arguments, he referred to Para No.8 of the petition in which he specifically pleaded that as per Clause 5 of the Transfer Policy, on promotion every officer/official will be transferred to another station and in the present case, respondent No.3 was posted at Karnal as an XEN and on his first promotion itself he was promoted on the same station and there is no justifiable reason for that for making a departure from the Transfer Policy (Annexure P-1). It was further specifically pleaded in Para No.8 that instead of transferring the respondent No.3 at another place, the official respondents have transferred the petitioner despite the fact that the petitioner has served only for 9 months at Karnal and less than one year was left for his retirement as he was due to retire on 30.11.2024 and it was also specifically pleaded in Para No.8 that it was a violation of the Transfer Policy of 2012. Learned counsel further submitted that the respondent-Nigam has filed a reply to the present petition and while replying to Para No.8 of the petition, it has been only stated that the Transfer Policy of 12.10.2021 is now in vogue and as per Clause 11 of the Policy, the Nigam retains the right, to transfer any officer at any time in the interest of the Nigam on the administrative grounds. He also submitted that the aforesaid Transfer Policy which now the respondent-Nigam has stated in the

reply dated 12.02.2024 has been appended by the respondents in their reply as Annexure R-1/7 and the aforesaid Clause 11 is also reflected in the Transfer Policy of 12.10.2021. Learned counsel for the petitioner further submitted that the respondent-Nigam has given a factually incorrect position while filing reply to Para No.8 of the petition and in this way, the respondent-Nigam has filed a false reply before this Court and for that purpose, the officer who has filed the reply has committed perjury by so stating in Para No.8 of the reply that the Transfer Policy of 12.10.2021 is now in vogue. He submitted that a bare perusal of Notification dated 12.10.2021 (Annexure R-1/7) would show that the aforesaid policy applies only to the officers of the rank of AE/AEE/XEN and this policy does not apply to the post of Superintending Engineer the post which the petitioner was holding and therefore, the officer, who has filed the present reply has to be prosecuted for the offence of perjury and also for the contempt of Court.

9. Learned counsel for the petitioner further submitted that the malice on the part of the respondent-Nigam is further substantiated from the fact that respondent No.3 was serving at Karnal for about last 15 years which has been so specifically pleaded in Para No.8 of the petition and in the reply which has been filed by the respondents there is no denial with regard to the same and therefore, there is no dispute with regard to the same. In this regard, he referred to another Clause of the Transfer Policy (Annexure P-1) and as per Clause 3 of the Policy, the maximum period for serving in one District in the entire career shall be 8 years and the submissions which he had made that it was only to accommodate respondent No.3 that the petitioner has been uprooted at the fag end of his career, would get substantiated from this fact that the respondent No.3 has been working in District Karnal from the last 15 years preceding the present transfer order in different capacities. He further submitted that the respondent-Nigam has

committed whole sale violation of the Transfer Policy.

10. Learned counsel for the petitioner has referred to the judgments passed by the Division Bench of this Court in “Dr. Dev Parkash Chugh Vs. State of Punjab and others”, 2006(1) SLR 553, “Darshan Kumar Vs. State of Punjab and others”, 2006(3) SLR 546 and also a judgment passed by a Co-ordinate Bench of this Court passed in “Anil Garg Vs. State of Punjab and others”, 2020(4) S.C.T. 559, to contend that once a policy has been framed for transfer by a department, then it has to be adhered to and the Government cannot deviate from the terms of the policy and the same can be done only for sufficient reasons. The learned counsel has also referred to a judgment of the Hon’ble Supreme Court passed in “S.K. Nausad Rahaman and others Vs. Union of India and others”, 2022(12) SCC 1, to contend that when a Transfer Policy is made then the employer making such a policy has to see various aspects pertaining to even the family life and privacy of its employees and it certainly affects the rights ensured under Article 21 of the Constitution of India.

11. On the other hand, Mr. Puneet Jindal, learned Senior Counsel appearing on behalf of respondent Nos.1 and 2 has opposed the prayer made by the petitioner and has argued that a Transfer Policy has no statutory force of law and even if the Transfer Policy provides for various conditions for transferring an employee within a limited span, the employer always reserves its right to transfer its employee on the basis of administrative exigencies and in this regard, he referred to Clause 13 of the aforesaid Policy which states that the Nigam management however retains the right to transfer any officer at any time to any post in the interest of Nigam. While also referring to Clause 12 of the aforesaid Policy, he submitted that although it has been so provided that an official/officer left with one year or lesser service before retirement shall not be transferred from his station of posting except on his own request but the aforesaid Clause 12

has to be read along with Clause 13 wherein in exceptional cases, an employee can always be transferred in administrative exigencies. He further submitted that the petitioner was transferred in an administrative exigency regarding which, it has been so explained in the reply. To substantiate his arguments, he submitted that when the petitioner was posted at Kaithal in the year 2021-2022, he was asked by the Head Office to process and forward a show-cause notice which was to be issued to two officers but he delayed the aforesaid forwarding of the show-cause notice for 48 days with the result that the aforesaid two officers, against whom the show-cause notice was to be issued, were promoted and had the show-cause notice been forwarded by the petitioner in due course of time and had not been delayed for 48 days, then the aforesaid two employees would not have been promoted and in this way loss has been caused to the Nigam in this regard. Another administrative exigency which has been so stated in the reply was that when the petitioner was posted at Karnal then he had conducted an inquiry and he was asked to send inquiry report within 15 days but he caused delay with regard to the same and therefore, due to this administrative exigency as well the petitioner was shifted to Panchkula by way of impugned order dated 24.01.2024 (Annexure P-2). He further submitted that the Nigam has an absolute power to transfer an employee due to administrative exigencies and therefore, the power has been exercised by the Nigam in accordance with law.

12. Learned Senior Counsel for the respondents-Nigam has also referred to the judgments passed by the Hon'ble Supreme Court in "*Mrs. Shilpa Bose and others Vs. State of Bihar and others*", 1991 SCC 659, "*Rajendra Singh Vs. State of U.P. and others*", 2009(15) SCC 178, "*State of U.P. and others Vs. Gobardhan Lal*", 2004(11) SCC 402 and "*Union of India Vs. S.L. Abbas*", 1993(4) SCC 357 and also a judgment passed by a Co-ordinate Bench of this Court in "*Raman Sharma Vs. State of Haryana and others*", 2022(2)

S.C.T. 188 to contend that as matter of normal course, the Courts should not interfere in the transfer matter except when there is a violation of any statutory provision or it is without any authority of law or when the transfer has been effected due to *mala fide*. He submitted that in the present case specific *mala fide* has not been pleaded by the petitioner in the petition and therefore, the transfer order cannot be set aside on the basis of allegation of *mala fide*.

13. At this stage, Mr. Anurag Goyal, learned counsel for the petitioner submitted that after the interim order was passed by this Court, the respondent No.3 has now been transferred to Kurushetra and due to the interim orders passed by this Court, the petitioner is still at Karnal because his orders were kept in abeyance after issuance notice of motion. He has also categorically submitted on the basis of instructions from the petitioner, who is also present in the Court, that the petitioner is having an unblemished service record and he has served the Nigam for 34 long years and till date there is no inquiry or FIR or any kind of disciplinary proceeding against the petitioner and so far as the charge-sheet which is so referred to in the reply and as stated by the respondents-Nigam was issued to the petitioner after the notice of motion was issued by this Court in order to defeat the ends of justice and has submitted that it is not a case where there is something adverse against the petitioner that he is to be uprooted at the fag end of his career and it was only because of the malice that in order to adjust respondent No.3 to the post of Superintending Engineer where he got his first promotion as Superintending Engineer and notwithstanding that he remained in the District Karnal for long 15 years that the petitioner was uprooted.

14. I have heard the learned counsel for the parties.

15. The issue involved in the present case is pertaining to the exercise of powers by the respondent-Nigam in transferring the petitioner. The respondent No.3 is also present in the Court today and has been so identified by

Mr. Mohit Bhatnagar, Superintendent. At the outset, a specific query was raised to respondent No.3 by this Court as to for what period of time has he been posted at Karnal and as to whether the averment made by the petitioner in Para No.8 of the petition that respondent No.3 remained posted at Karnal for 15 years at different post is correct, to which he specifically replied that he remained at different posts for around 15 years at Karnal and from Karnal itself when he was posted as XEN, he was promoted and on his first promotion he got the assignment of Superintending Engineer at Karnal.

16. The proposition of law with regard to the enforceability of a Transfer Policy is no longer *res integra*. The judgments which have been referred to by the learned Senior Counsel for the respondent-Nigam are pertaining to the law that it is the prerogative of an employer to transfer an employee at any place on administrative exigencies and normally the Court should not interfere except in the cases where there is a violation of any statutory provision of law or when the order is without the authority of law or when it is bagged by *mala fide*. However, in the present case, it has to be seen and considered as to whether the present impugned order (Annexure P-2) by which the petitioner has been transferred was a result of any malice or not.

17. Before advertng to the facts and circumstances of the present case, it has to be noted that malice/*mala fide* can be of two types. Firstly, a *mala fide* can be a personal *mala fide* and secondly, *mala fide* can be a legal *mala fide*. In the present case, even if it may not be a case of personal *mala fide* but considering the facts and circumstances of the present case, it has to be seen as to whether there was any malice in law or not. The Hon'ble Supreme Court in **"Ms. X Vs. The Registrar General, High Court of Madhya Pradesh and another"**, 2022(14) SCC 187 discussed this issue in detail pertaining to the concept of malice in law. The malice in law is to be deduced from the facts and

circumstances of the present case and it is the duty of the Court to go into the depth of the facts and circumstances as to whether there is any malice in law or not.

18. In the present case, the petitioner was posted initially at Kaithal and vide Annexure R-1/3 on his own request, he was transferred to Karnal which is his home District on the ground that his father is 90 years old and his wife generally remains ill and there is nobody to look after them and the aforesaid request was accepted by the Nigam itself which was only few months before the present impugned order was passed. However, while the petitioner was still in Karnal, respondent No.3 was due to be promoted as Superintending Engineer because he was working in Karnal as XEN and after his promotion on his first posting, he was given the posting at Karnal as Superintending Engineer and consequently the petitioner was displaced and uprooted and he was transferred to Panchkula, notwithstanding the fact that the petitioner was due to retire within a period of about 9/10 months. In other words, even for the sake of arguments, the Transfer Policy is not to be seen to be having any statutory force of law but there is no justification which has come forth as to what compelled the respondents-Nigam to transfer the petitioner at the fag end of his career. The only reason which has been given by the respondent-Nigam in the reply is that because of the administrative exigencies the petitioner had to be transferred and the administrative exigency is based upon two factors. The first factor is that while he was posted at Kaithal, he did not forward the file pertaining to a show-cause notice to the Head Office and he caused a delay of 48 days and second reason is that while he was posted at Karnal, he was asked to submit an inquiry report within 15 days which he did not submit. The question that would arise would be that whether the aforesaid two reasons would be the cogent reasons for transferring an employee in contradiction to the terms and conditions of the

transfer policy itself. When this Court had issued notice of motion and passed an interim order then after a few days a charge-sheet was served upon the petitioner vide Annexure R-1/9 pertaining to the aforesaid delay of 48 days. On the otherhand, it is undisputed that while the petitioner is in service for 34 long years, he is having unblemished record and there is not even a single inquiry or complaint or FIR against the petitioner and now when this Court was seized of the matter, it appears that in order to justify their own action, the respondent-Nigam has issued a charge-sheet which was issued for the first time in his career.

19. Even if the Transfer Policy is not having any statutory force of law, but the same has been followed by the Nigam from time to time and as per Clause 5 of the Transfer Policy on promotion every officer/official will be transferred to another station whereas respondent No.3 who was posted at Karnal for 15 long years at different capacities on promotion was given the posting at the same District. The relevant portion of the aforesaid Transfer Policy is reproduced as under:-

“5. On promotion, every officer/official will be transferred to another station.”

20. Therefore, a situation has arisen whereby for accommodating the respondent No.3, Clause-5 has been violated and for transferring the petitioner who was scheduled to retire within one year and as per the policy, when an officer is to retire and the tenure is less than one year, he is not to be displaced and transferred vide Clause 12, the same has also been violated.

21. In Para No.8 of the petition, it was specifically pleaded by the petitioner that respondent No.3 has been given the place where the petitioner was posted and the petitioner has been uprooted despite the fact that less than year was left for his retirement and there has been a violation of the aforesaid Transfer Policy. When a reply was filed by the respondent-Nigam, then the

aforesaid averments have not been denied by them and rather it has been so specifically stated in Para No.8 of the reply that another Policy of 12.10.2021 is in vogue. Para No.8 of the present petition and Para No.8 of the reply are also reproduced in a tabulated form as under:-

<i>Writ petition</i>	<i>Reply</i>
<i>8.That it is submitted herein that the Clause 5 of the transfer policy stipulates that on promotion, every officer/official will be transferred to another station. However, the same has not been done in case of respondent no. 3-Dharam Suhag. It is pertinent to mention herein that the respondent no. 3 has been recently promoted from the post of XEN to Superintending Engineer and he has been posted at Karnal only on the place of petitioner despite the fact that respondent no. 3 has served at Karnal for a period of around 15 years which is totally against the Transfer Policy. Instead of transferring the respondent no. 3, the official respondents have transferred the petitioner despite the fact that the petitioner has served for 09 months only at his present place of posting i.e. Karnal and further, the petitioner has less than 01 year to his retirement i.e. 30.11.2024 which is against the Transfer Policy, 2012 wherein it has been stipulated that the minimum period for continuously serving on the post shall be 3 years and further, it has been stipulated that any official who has less than one year or lesser service before his retirement, shall not be transferred from his station.</i>	<i>8. That in reply to the para no. 8 of the writ petition, it is submitted that at present, the transfer policy dated 12.10.2021 is now in vogue. As per clause no. 11 of the ibid policy, the Nigam retains the right, to transfer any officer at any time in the interest of the Nigam on administrative grounds.</i>

22. During the course of arguments, a specific query was put to the learned Senior Counsel for the respondent-Nigam as to whether the Transfer Policy vide Annexure P-1 which has been relied upon by the learned counsel for the petitioner was in operation or not and as to whether the policy of

12.10.2021 which has been so stated in the reply was in vogue or not. The learned Senior Counsel has stated that he has sought instructions to state that the Transfer Policy of 12.10.2021 does not apply to the petitioner and which is so evident from the bare language of the aforesaid Policy which states that the policy shall apply only to the officers of the rank of AE/AEE/XEN. Therefore, it is absolutely clear that when the respondent-Nigam has filed reply to the present petition in Para No.8 factually incorrect position has been reflected and reply of Para No.8 is absolutely misleading. When a question arises with regard to the allegation that as to whether the transfer of the petitioner was a result of malice in law or not, the aforesaid stand now taken by the respondent-Nigam in the reply wherein false and incorrect position has been reflected, this Court would have no option but to come to the conclusion that the aforesaid impugned transfer order dated 24.01.2024 (Annexure P-2) was a result of malice in law. Legal *mala fide* were also attributable towards respondent No.3 besides the Nigam. However, respondent No.3 has chosen not to file reply to the present petition. The Nigam has also not categorically denied the allegation in reply to Para 8 of the petition. Therefore they would be deemed to have been admitted. Reference in this regard may be made to a judgment of Hon'ble Supreme Court in "**Daljeet Singh Grewal Vs. State of Punjab and others**", (2015) 9 SCC 680, the relevant portion is reproduced as under:-

"39. Further, the adverse remarks for the period 1999-2000 were conveyed to the appellant vide communication dated 28-06-2000 by the D.G.P-cum-Commandant General. The representations dated 18.08.2000 and 25.08.2000 made by the appellant against the same were submitted to Respondent 4. The said

representations were rejected on 07-05-2001. The appellant had challenged the same by filing Civil Suit No. 70 of 2001, wherein Respondent 4 was impleaded as Defendant 3. The civil suit was decreed on 15-03-2002 in favour of the appellant. The said judgment and decree passed in favour of the appellant has not been implemented by Respondent 4 and 5, despite having attained finality, which clearly reflects the fact that Respondent 4 was not fair in considering him for promotion to the post of Battalion Commander as provided under Rule 8(2) of the Rules. According to the Rules, the appointment to the promotional post shall be made on seniority-cum-merit basis. As per the ACRs placed on record, the appellant has fulfilled the aforesaid requirement of seniority-cum-merit by securing 14 marks, as per the instructions in relation to all aspects entered in the ACR. The strong reliance placed upon the adverse remarks made by Respondent 4, who has made the same without assigning any reasons, has resulted in the appellant being denied of the promotional benefit, even though the order of Respondent 4 was set aside by the judgment and decree in Civil Suit No. 70 of 2001. The action of Respondent 4 in denying the promotional benefit to the appellant is tainted with malafides. It can further be observed from the record that it was Respondent 7 who had filed the reply on behalf of all the respondents in the writ petition proceedings before the High Court. It is important to note at this stage that Respondent 7 happens to be an officer junior to the appellant, who was promoted to the post in question. The non-filing of written statement by Respondent 4 traversing the allegations of mala fide against him proves the mala fide intention on part of Respondent 4. Therefore, there was no justification for Respondent 4 in denying the promotional benefit to the post of Battalion Commander to the appellant. The

learned Senior Counsel on behalf of the appellant has rightly placed reliance on Sukhdev Singh, wherein this Court has lucidly laid down the law pertaining to communication of ACR. It was held that if the ACR of the officer concerned is to be used for the purpose of denying promotion, then all such ACRs were required to be communicated to him, to enable him to make a representation against his adverse entries made in the ACRs.”

23. This Court is of the considered view that *mala fide* on the part of the respondent-Nigam in view of the aforesaid facts and circumstances stands proved.

24. In view of the aforesaid totality of the facts and circumstances, the present petition is allowed. The impugned order dated 24.01.2024 (Annexure P-2) is hereby set aside qua the petitioner.

25. Since the Nigam has filed a reply based upon false facts as the same has been so clarified from the learned Senior Counsel appearing on behalf of the respondents-Nigam, this Court would have ordinarily considered for proceeding against the officer who has filed the reply for offence of perjury or contempt of Court. However, taking a lenient view this Court is of the view that the Officer, who has filed this reply should be burdened with costs, which are assessed at Rs.25,000/- and the same shall be paid by him to the petitioner by way of demand draft within a period of two months from today.

29.02.2024

Bhumika

(JASGURPREET SINGH PURI)
JUDGE

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|-------------------------------|--------|
| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |