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CWP-7868-2024

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CM-18786-CWP-2024 in/&
CWP-7868-2024
Date of Decision :22.11.2024

Major Gurjinder Singh Benipal

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Parusha Shridha, Advocate with
Mr. Rana Gurtej Singh, Advocate for the petitioner.

Mr. T.P.S. Chawla, DAG, Punjab.

Harsimran Singh Sethi, J. (Oral)

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Present application has been filed for preponing the date of hearing in the main writ petition, which is fixed for 06.02.2025.

Notice of the application to the respondents.

Mr. T.P.S. Chawla, DAG, Punjab accepts notice on behalf of respondent-State and raises no objection for the grant of prayer as made in the application for preponing the date of hearing in the main petition.

Keeping in view the same, the application is allowed. Date of hearing in main petition is preponed to today and the case is taken up for hearing.

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In the present petition, grievance of the petitioner is that he has

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been transferred to Ferozepur by the impugned order dated 29.11.2023 (Annexure P/6) passed by the respondents though, the petitioner is due to retire on 31.10.2025.

As per the averments made in the present petition, the petitioner attained the age of superannuation on 31.10.2023 and was accordingly retired and relieved from service. The petitioner raised a grievance that as he is a disabled employee, keeping in view the instructions issued by the Government of Punjab, he is entitled to continue in service till the age of 60 years and accordingly a decision was taken by the respondents to allow the petitioner extension in service up to the age of 60 years. The said decision was taken by the respondents on 14.11.2023. In compliance of the said decision dated 14.11.2023, the petitioner again joined back his services on 15.11.2023. Upon joining his duties, the petitioner was posted at Ferozepur by the impugned order whereas, in the present petition, the prayer of the petitioner is that he should have been allowed to join at his place of posting where he was working as on 31.10.2023 and should have allowed to continue in service on the said place of posting till his retirement.

Upon notice of motion, the respondents have filed reply, wherein, it has been stated that as the age of retirement of employee working on Class-I post is 58 years and on attaining the said age, the petitioner was retired from service on 31.10.2023 but thereafter, as the petitioner is a disabled employee and he claimed extension in service for another two years, the said benefit was granted to him by the respondents vide order dated 14.11.2023 and upon rejoining the service on 15.11.2023, the petitioner was posted at Ferozepur as during the interregnum, the place

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of posting where the petitioner was working as on 31.10.2023 i.e. at Malerkotla, has already been occupied by another officer and petitioner was posted against a vacant post at Ferozepur hence, grievance being raised by the petitioner that he has been transferred is incorrect and rather he has been given a different place of posting upon rejoining the service on 15.11.2023.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

The question which arises for consideration in the present petition is whether the petitioner has any right to continue on the place of posting on which he is working as on 31.10.2023.

The argument of the learned counsel for the petitioner is that as per the transfer policy, an employee who has 02 years to go before his/her retirement should be allowed to continue on the post on which he/she is working or should be given three options for posting. The reliance is being placed upon the transfer policy issued by the State of Punjab.

It is a settled principle of law that the transfer policy is not justiciable and the same is merely a guideline and no claim can be raised on the basis of the said transfer policy. Reliance can be placed upon the judgment of the Division Bench of this Court in **Nisha vs. State of Haryana LPA No.247 of 2020, dated 24.02.2020.**

Learned counsel for the petitioner has not been able to dispute the said fact settled principle of law.

Even otherwise, the present case is not the case of transfer rather is a case of posting upon the grant of benefit of extension in service to the petitioner after he already had attained the age of superannuation. In the

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present case, the petitioner was relieved from service after 31.10.2023 but was allowed to rejoin on 15.11.2023 after the grant of benefit of extension in service and by the time, the extension in service was granted, his earlier place of posting had already been filled up by another officer hence, the petitioner was posted at the station which was vacant and available hence, in the present case, no grievance can be raised by the petitioner.

Even otherwise, the petitioner has already worked for a period of one year at Ferozepur hence, it will be in the fitness of things that petitioner continues on the said place of posting.

Keeping in view the above, no ground for interference by this Court is made out and the writ petition is accordingly dismissed.

November 22, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

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