

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-6437-2024
Date of Decision: 18.03.2024

Sunil Kumar
..... Petitioner

Versus

State of Haryana and others
..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Deepak Vashishth, Advocate
for the petitioner.

HARSH BUNGER J. (ORAL)

1. Petitioner (Sunil Kumar) has filed the present writ petition under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of Certiorari for setting aside impugned order dated 04.03.2024 (Annexure P-4) passed by the Deputy Director (Admin.) National Health Mission Haryana, Panchkula, whereby the transfer order of petitioner from C.H.C. Siwan, Kaithal to C.H.C. Pundri against vacant post was cancelled.
2. Briefly, petitioner is stated to have joined as Ayush Medical Officer (in short 'A.M.O.') at P.H.C. Padla, District Kaithal; and since 05.03.2024, he was posted at C.H.C. Siwan. According to petitioner, a notification was issued by the respondent-Department (National Health Mission) on 03.04.2023 (Annexure P-1), for inviting applications from the interested candidates, who wanted to get transfers/

mutual transfers/adjustments within the same District; whereupon, petitioner filed an application for such transfer against a vacant post at C.H.C. Pundri, District Kaithal. It transpires that in response to the aforementioned application, respondent-Department issued letter dated 12.04.2023 (Annexure P-3), whereby permission was granted to petitioner for intra district transfer from C.H.C. Siwan, Kaithal to C.H.C. Pundri, Kaithal, against a vacant post.

Petitioner claims that since April, 2023, he was working at C.H.C. Pundri, Kaithal, being A.M.O., and he also shifted to Pundri as his wife was working at Kurukshetra in Education Department and his two minor children were also studying at Kurukshetra.

It appears that vide order dated 04.03.2024 (Annexure P-4), the transfer order of petitioner dated 12.04.2023 (Annexure P-3) was cancelled with immediate effect by the respondent-Department.

3. Being aggrieved against the aforesaid order dated 04.03.2024 (Annexure P-4), petitioner has filed the instant writ petition before this Court.

4. Learned counsel for the petitioner submits that petitioner is a dedicated employee and there is no complaint against him. It is submitted that representation dated 06.03.2024 (Annexure P-6) filed by petitioner before the respondent-Department has also not been considered, till date. It is further submitted that impugned order dated 04.03.2024 (Annexure P-4) does not mention any reason for cancelling his transfer order dated 12.04.2023 (Annexure P-3).

With the aforesaid submissions, learned counsel for the petitioner has prayed for setting aside the impugned order dated 04.03.2024 (Annexure P-4).

5. I have heard learned counsel for the petitioner and gone through the paper book with his able assistance.

6. It is well settled position in law that whether, and if so where, an employee should be posted are matters which are governed by the exigencies of service. An employee has no fundamental right or, for that matter, a vested right to claim a transfer or posting of his/her choice. It is also well established that individual convenience of persons who are employed in the service is subject to the overarching needs of the administration.

7. Hon'ble Supreme Court in "*Union of India Vs. SL Abbas*", (1993) 4 SCC 357 held that transfer is an incident of service; and further observed that:-

"Who should be transferred where, is a matter for the appropriate authority to decide. Unless the order of transfer is vitiated by mala fides or is made in violation of any statutory provisions, the court cannot interfere with it. While ordering the transfer, there is no doubt, the authority must keep in mind the guidelines issued by the Government on the subject. Similarly if a person makes any representation with respect to his transfer, the appropriate authority must consider the same having regard to the exigencies of administration. The guidelines say that as far as possible, husband and wife must be posted at the same place. The said guideline however does not confer upon the Government employee a legality enforceable right."

8. In the instant case, apparently, the petitioner does not allege any *mala fides* in the passing of impugned order dated 04.03.2024 (Annexure P-4) nor any violation of any statutory provision has been pointed out.

9. Considering the totality of circumstances and in view of above

discussion, there is no scope for any interference in the impugned order dated 04.03.2024 (Annexure P-4); resultantly, the instant petition fails and the same is accordingly dismissed.

10. All pending application(s), if any, shall also stand closed.

18.03.2024
Apurva

(HARSH BUNGER)
JUDGE

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