

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(112)

LPA-337-2023 (O&M)

Decided on : 04.03.2024

Pawan Kumar

.....Appellant(s)

Versus

State of Punjab and others

.....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA,
ACTING CHIEF JUSTICE
HON'BLE MS.JUSTICE LAPITA BANERJI**

Present: Mr. APS Shergill, Advocate and
Ms. Navkiran Bajwa, Advocate for the appellant (s).

Mr. Saurav Khurana, Addl. AG, Punjab.

G.S. Sandhawalia, Acting Chief Justice (Oral)

CM-1457-LPA-2024

Application for placing on record Annexures A-2 and A-3, is
allowed, subject to just exceptions. Said annexures are taken on record.
Office to append the same at the relevant place.

CM stands disposed of.

LPA-337-2023

Consideration in the present letters patent appeal is sought of the
order of the learned Single Judge dated 14.03.2023 passed in **CWP-4174-2016**
filed by the appellant, whereby the writ petition was dismissed and the
challenge as such to the reversion of the writ petitioner was rejected and his
prayer to continue to perform the duties in the office of the State Transport
Commissioner, as per order dated 30.11.2012 (Annexure P-2) was rejected.
Resultantly, the learned Single Judge noticed that initially the writ petitioner

was appointed as a Steno-Typist in the Punjab Roadways, which is an autonomous body. Apparently, he was brought on deputation in the office of District Transport Officer, Gurdaspur from Punjab Roadways, Patti (now Amritsar-1) while serving as Steno-Typist, vide letter dated 22.08.2008 (Annexure P-1) under Rule 10.21 of the Punjab Civil Services Rules, Volume-I, Part-I. Thereafter, he was appointed by way of transfer in the office of State Transport Commissioner, Punjab, vide order dated 30.11.2012 (Annexure P-2), which order was cancelled on 19.06.2013 (Annexure P-3) on the ground that it was not as per instructions. The order remained stayed as such on account of his filing an appeal on 06.08.2013 (Annexure P-5). Eventually his appeal was dismissed on 24.02.2015 (Annexure P-7) and directions were issued that the appellant would submit his joining in his parent department i.e. Director State Transport, Punjab. The petitioner, thereafter, approached this Court and the learned Single Judge, thus, came to the conclusion that the transfer was in violation of the instructions dated 22.11.1977, as the post was never circulated to the various offices. Resultantly, the writ petition was dismissed.

2. It is not disputed that there was an interim order operating in favour of the appellant during the pendency of the writ petition, which automatically stood vacated after dismissal of the writ petition. The appellant would have joined back in his parent department, in view of the said orders, as a period of almost one year has gone by, since his writ petition was dismissed. The reasoning which has been given by the learned Single Judge, sought to be assailed on the ground that instances have been given of others, who still remain serving with the State Transport Commissioner.

3. We are not impressed with the said argument, since it is settled principle that Article 14 of the Constitution of India does not operate in the negative, as stand of the State is that the transfer was not as per the instructions and it is also pointed out that there is no provision for transfer under the Punjab Transport Department (Non-Commercial Wing) Class-III Services Rules, 2000. The appellant cannot as such claim any right to continue in the absence of any legal right firstly being picked up and then sent back. It is for the administrative exigency, which had been done by the State and it is not liable to be interfered under Article 226 of the Constitution of India.

4. Resultantly, there is no merit in the present appeal and same is hereby dismissed in limine.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

04.03.2024
Naveen

(LAPITA BANERJI)
JUDGE

Whether speaking/reasoned :	√Yes	No
Whether Reportable :	Yes	√ No