

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-8390-2024
Date of Decision:18.04.2024

RAJNEESH SHARMA Petitioner

Versus

CENTRAL BANK OF INDIA AND ANOTHER Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Rohit Seth, Advocate
for the petitioner.

Mr. Naren Pratap Singh, Advocate
for the respondents-Bank.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 08.04.2024 (Annexure P-27) whereby his representation has been rejected and he has been transferred from Chandigarh Zone to Lucknow Zone.
2. The petitioner is working with respondent-Bank as Scale-I Officer. His daughter is suffering from Cancer and she is taking treatment from Fortis Hospital, Mohali. The respondent-Bank has transferred him from Chandigarh Zone to Lucknow Zone.
3. Mr. Rohit Seth, Advocate submits that petitioner has been transferred in violation of transfer policy dated 15.03.2024. The daughter of the petitioner is concededly suffering from Cancer, thus, he cannot be

transferred out of Chandigarh Zone.

4. Per contra, Mr. Naren Pratap Singh, Advocate submits that petitioner is holding a transferable post. He cannot be retained at a particular place for an indefinite period. He is working in Chandigarh Zone for last more than 16 years. His further retention at Chandigarh would set a bad precedent. He, on the earlier occasions has been accommodated and cannot be accommodated for an indefinite period. His daughter on regular basis is pursuing MBA course and she has to visit hospital after every 3 months, thus, she can get treatment without any interruption. Wife of the petitioner is working in Chandigarh and she can also accompany her daughter.

5. I have heard arguments of both sides and scrutinized record with their able assistance.

6. The respondent while passing impugned order has relied upon circular No.1487 dated 15.03.2024 and particularly Annexure-I. The relevant Clause relied upon by respondent is reproduced as below:

3. **ROTATIONAL TRANSFERS:**
3.1 *Officers in Scale I/II/III who have (subject to provisions of para 1.2 and 3.2. & 3.5)*
xxx xxx xxx xxx
Completed 10 years of stay as an officer in a particular zone, irrespective of the scale, shall be transferred to another zone. However, based on the Ranking on Performance appraisal in Central Rise, Officers may be retained in the same zone to the extent of fulfilling administrative requirements in order to merit.

The respondent has relied upon one particular Clause of the policy dated 15.03.2024, however, ignored Clause 4.1.8 of said very policy. Clause 4.1.8 of the policy is reproduced as below:

“Requests for transfer of officers to another Zone or another Region (within the Zone) on permanent or temporary basis on compassionate grounds, regardless of eligibility period, subject to availability of vacancies, shall be considered at Central Office by General Manager-HCM, in case of officer, spouse or dependent children, stated to be suffering from Critical illness or any other extreme circumstances viz. Death of spouse, etc.

Following illness of critical nature would be considered for the purpose of transfer on compassionate grounds:-

- 1. Cancer including Leukemia*
- 2. Stroke resulting in permanent symptoms.*
- 3. Paralysis*
- 4. By-pass surgery*
- 5. Major Organ Transplant*
- 6. End Stage Liver Disease*
- 7. Kidney/Liver Failure*
- 8. Heart Valve replacement surgery.*

In addition to the above, any other illness of critical nature may also be considered for purpose of transfer on compassionate grounds, based on merits of the case.”

7. From the perusal of aforesaid clause, it is evident that if a child of an officer is suffering from Cancer, he may be retained at a particular place, subject to availability of vacancy. The daughter of the petitioner is concededly suffering from Cancer and respondent while passing impugned order has not adverted with this clause. The respondent has further not concluded whether vacancy is available at Chandigarh Zone or not.

8. It is settled proposition of law that Courts normally should not interfere in transfer matters, however, if transfer has been made in violation of guidelines, the Court may look into the matter and pass an

appropriate order. The petitioner has no absolute right to be retained at a particular place, however, in the premise of Clause 4.1.8 of Annexure -I of the policy, his claim needs to be considered. Accordingly, the respondents are hereby directed to re-consider claim of the petitioner in terms of aforesaid clause and pass an appropriate order.

9. Disposed of in the above terms.
10. It is made clear that fresh order would be passed on the basis of available record and observations of this Court. The petitioner is at liberty to submit medical record of his daughter within 2 days from today and fresh order shall be passed within a week thereafter.

(JAGMOHAN BANSAL)

JUDGE

18.04.2024

Ali

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