

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

110/3

CWP-11877-2021 (O&M)
Date of Decision: 24.01.2024

Malkit Singh

...Petitioner

Versus

Bhakra Beas Management Board and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Ashok Bhardwaj, Advocate for the petitioner
Mr. Karan Nehra, Advocate for the respondents

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 22.06.2021 (Annexure P-1) whereby petitioner has been transferred from 220 KV Sub-Station, Sangrur, Circle Jamalpur, District Jalandhar to Pong Electricity Circle, BBMB, Talwara.

2. On 06.07.2021, the following order was passed:

“Heard through video conferencing.

Learned counsel for the petitioner submits that transfer of the petitioner from the post of Lineman, Office of Assistant Superintending Engineer O&M Circle, BBMB, Jamalpur (Jalandhar Circle) to Pong Electricity Circle, BBMB, Talwara under the Chief Engineer, Generation BBMB, Nangal, would take away the service benefits like seniority in view of Rule 13 of the Bhakra Beas Management Board Class III and Class IV Employees (Recruitment and Conditions of Service) Regulations, 1994. Learned counsel for the petitioner further

contends that a case where similar issue has been raised is already pending in this Court being CWP No.7683 of 2018.

Notice of motion.

To be heard along with CWP No.7683 of 2018 on the date already fixed therein.

Meanwhile, the transfer order (Annexure P-1) qua the petitioner shall remain stayed.”

3. Mr. Karan Nehra, learned counsel for the respondents submits that petitioner is not an employee of BBMB whereas he is an employee of Dakshin Haryana Bijli Vitran Nigam ('DHBVN'), thus, he is not governed by Bhakra Beas Management Board Class III and Class IV Employees (Recruitment and Conditions of Service) Regulations, 1994, therefore, it is factually and legally incorrect that transfer of the petitioner from Jamalpur to Talwara is going to affect the seniority of the petitioner. The interim order dated 06.07.2021 has been obtained by misleading this Court.

4. Learned counsel for the petitioner submits that petitioner is president of employees union and the union on 15.04.2021 under his leadership passed a resolution to the effect that Senior Sub-Station Officer is adopting corrupt practices and management should take action against him. A legal notice dated 07.05.2021 was served upon the management which prompted them to transfer the petitioner along with another employee. The action of the respondent was unjustified and unfair.

5. *Per contra*, learned counsel for the respondents submits that petitioner has been transferred on administrative ground and he has already enjoyed stay for more than two years. The management has every right to transfer an employee. Nobody has vested or fundamental right to work at a

particular place. The petitioner has been transferred from one location of the respondent to another.

6. I have heard the arguments of learned counsels for both sides and perused the record with their able assistance.

7. It is settled proposition of law that it is prerogative of the employer to post its employees as per its choice. No employee can claim posting at a particular place. The Courts are not supposed to interfere in the transfer orders until and unless there is grave miscarriage of justice or abuse of process of law.

8. The Supreme Court in ***Punjab and Sind Bank and Others v. Durgesh Kuwar; (2020) 19 SCC 46***, while dealing with question of transfer has held that an employee cannot have a choice of posting. Administrative circulars and guidelines are indicators of the manner in which the transfer policy has to be implemented. An administrative circular does not confer a vested right which can be enforced by writ of mandamus. The relevant extracts of the said judgment read as:-

“17. We must begin our analysis of the rival submissions by adverting to the settled principle that transfer is an exigency of service. An employee cannot have a choice of postings. Administrative circulars and guidelines are indicators of the manner in which the transfer policy has to be implemented. However, an administrative circular may not in itself confer a vested right which can be enforceable by a writ of mandamus. Unless an order of transfer is established to be mala fide or contrary to a statutory provision or has been issued by an authority not competent to order transfer, the Court in exercise of judicial review would not be inclined to interfere. These principles emerge from the judgments which

have been relied upon by the appellants in support of their submissions and to which we have already made a reference above. There can be no dispute about the position in law.”

9. The petitioner at the time of notice of motion made a statement that transfer is going to affect his seniority. The said statement has been found incorrect. The petitioner at this stage is raising another ground which is not convincing. The respondent on account of administrative reasons can transfer any employee at any point of time. The petitioner on account of interim order passed by this Court is staying at the same place for more than 2½ years. Neither in law nor in equity, impugned order deserves to be set aside.

10. Considering the factual matrix and above cited judgment of Supreme Court in **Durgesh Kuwar (Supra)**, this Court does not find merit in the instant petition. The petition deserves to be dismissed and is accordingly dismissed.

11. Stay granted by this Court vide order dated 06.07.2021 stands vacated.

12. Pending application(s), if any, shall also stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

24.01.2024
Mohit Kumar

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