



CWP-10815-2024

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

118

CWP-10815-2024

Date of Decision : 15..05.2024

JASWINDER SINGH

... PETITIONER

Versus

UNION OF INDIA AND OTHERS

... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr.Sunny Singla, Advocate
for the petitioner.

Ms. Anita Balyan, Sr.Panel Counsel
for the respondents-UOI.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of transfer order dated 26.02.2024 (Annexure P-1) whereby he has been transferred from Chandigarh to Udhampur.

2. Mr. Sunny Singla, Advocate *inter alia* contends that petitioner in 2020 suffered heart attack and thereafter in 2022 paralytic attack, thus, he ought not to be transferred from Chandigarh to Udhampur. As per transfer policy dated 27.09.2022 he should be assigned posting considering his medical condition.

3. Ms. Anita Balyan, Sr.Panel Counsel submits that on account of medical condition of petitioner, he was twice accommodated. He is a



cook and all medical facilities are available at Udhampur. The shifting of place of posting is not going to adversely effect physical or mental health of the petitioner.

4. 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 as a matter of right. 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.

5. The Supreme Court in ***Punjab and Sind Bank and Others Versus 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.”

6. Considering the factual matrix and above cited judgment of Supreme Court in **Durgesh Kuwar (Supra)**, this Court does not find it appropriate to invoke its extraordinary writ jurisdiction, thus, the petition is hereby dismissed.

7. The petitioner is at liberty to move an appropriate representation and dismissal of this petition would not inhibit respondents from sympathetically considering case of the petitioner.

(JAGMOHAN BANSAL)
JUDGE

15.05.2024

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