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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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Date of decision: 23.05.2024

JOGINDER SINGH

...PETITIONER

Vs.

BHARAT ELECTRONICS LIMITED AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Mayank Gupta, Advocate
for the petitioner.

Mr. P.K. Mutneja, Senior Advocate with
Ms. Suverna Mutneja, Advocate and
Mr. V.S. Mahal, Advocate
for the respondents.

JAGMOHAN BANSAL, J (ORAL)

1. The petitioner through the instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of transfer order dated 02.05.2024 (Annexure P-2) and order dated 13.05.2024 (Annexure P-9) whereby he has been transferred from Panchkula to Jodhpur.

2. On 17.05.2024, the following order was passed:

“The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of his transfer orders dated 02.05.2024 (Annexure P-2) and 13.05.2024 (Annexure P-9) on three grounds, namely (i) as per appointment letter, he can be transferred to any factory/office under the management of the company and he has been transferred to a place where there is no factory/office of the company; (ii) the transfer order has been passed without considering his health condition in true spirit; and (iii) the transfer order could be passed by



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Chairman-cum-Managing Director as per instructions dated 15.02.2024 (Annexure P-5) whereas he has been transferred by Deputy General Manager (HR).

This Court does not find substance in grounds (i) and (ii), however, ground (iii) needs to be examined because it is a question of jurisdiction.

Notice of motion.

Ms. Swarna Mutneja, Advocate, who on advance notice is present in Court, accepts notice on behalf of the respondents and seeks time to file the reply.

Adjourned to 22.08.2024.

In the meantime, the respondent shall maintain status quo.”

3. During the course of hearing, Mr. P.K. Mutneja, Senior Advocate produced internal communication of respondent disclosing that order of transfer was passed by CMD, thus, there was due compliance of rules and regulations governing transfer of an executive.

4. Mr. Mayank Gupta, Advocate submits that petitioner is suffering from heart disease and he has already undergone surgery, thus, it is difficult for him to work at Jodhpur.

5. It is a 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.

6. 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.”

7. 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.

23.05.2024
manoj

[JAGMOHAN BANSAL]
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No