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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-17120-2015
Date of decision: 02.04.2024

DHARAMBIR SINGH

...Petitioner

VERSUS

UTTAR HARYANA BIJLI VITRAN NIGAM AND ORS.

...Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Deepak Goyal, Advocate for
Mr. Sumit Gupta, Advocate for the petitioner.

Mr. S. K. Mahajan, Advocate for respondents No.1 to 5.

Mr. A. K. Kansal, Advocate and
Ms. Garima Kansal, Advocate for respondent No.6.

JASGURPREET SINGH PURI, J. (Oral)

1. The present writ petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of *mandamus* directing the respondents to consider the case of the petitioner for his transfer from Jhajjar to Jind as Circle Superintendent as per letter dated 25.07.2013, especially when respondent No.6, who is junior to the petitioner and has submitted his option after the expiry of prescribed period has been transferred from Jhajjar to Jind as Circle Superintendent without considering the case of the petitioner.

2. Learned counsel appearing on behalf of the petitioner submitted that the prayer in the present writ petition is for seeking transfer of the petitioner from Jhajjar to Jind in accordance with the Transfer Policy. He further

submitted that the private respondent, who was junior to the petitioner was transferred but the petitioner was not transferred to Jind and in this way, the rights of the petitioner have been affected because had he been transferred to Jind, his seniority would have been different because the transfer is to be effected from UHBVNL to DHBVNL. He however submitted that during the pendency of the present writ petition, the petitioner has already retired on 31.07.2020 and even the private respondent has retired on 31.01.2023.

3. On the other hand, learned counsel for respondents No.1 to 5 submitted that now the present writ petition does not survive in view of the fact that both the petitioner and the private respondent have retired and the prayer is for transfer from Jhajjar to Jind. He further submitted that so far as the claim of the petitioner that he was wrongly ignored for being transferred from Jhajjar to Jind is concerned, the same was actually in accordance with the transfer policy. During the course of arguments, learned counsel for respondents No.1 to 5 has supplied a copy of the Transfer Policy dated 13.09.2012, which is taken on record, wherein there is a specific Clause under the title of *Modes of Transfer* i.e. (C)-*Own Request Based* and he referred to Clause (ii) of the same, wherein it is so stated that the request of transfer will not be considered if there is any charge-sheet/criminal case pending. He further submitted that at the time when the transfers were to be effected, the petitioner was facing two charge-sheets and he did not disclose this fact in the present writ petition when he filed the same and has also suppressed this material fact from this Court particularly in view of the fact that he was not eligible for being transferred in view of the aforesaid Clause. The aforesaid Clause (ii) is reproduced as under:-

(ii) The request of transfer will not be considered if there is any charge sheet/criminal case pending against him.

4. Learned counsel for respondents No.1 to 5 also submitted that it was only when the reply was filed on behalf of respondents No.1 to 5 that this fact was brought to the notice of this Court. He further submitted that even if the petitioner was thereafter exonerated in the aforesaid charge-sheets, if at all, even then it will not make any difference because at the time when he was to be considered for transfer, he was not eligible for being transferred and now the petitioner and the private respondent have already retired, nothing would survive in the present writ petition.

5. I have heard the learned counsel for the parties.

6. It is a case where the prayer in the petition is for seeking transfer of the petitioner from Jhajjar to Jind and also from UHBVNL to DHBVNL. During the pendency of the present writ petition, both the petitioner and private respondent have retired. The petitioner when filed the present writ petition did not disclose the pendency of two charge-sheets against him. However, it is the case of learned counsel for respondents No.1 to 5 that as per Clause (ii) as reproduced above, the petitioner was not eligible for being transferred because there were two charge-sheets against him and that was the reason as to why he was not transferred. Now the petitioner has already retired from service and therefore, this Court is of the view that nothing would survive in the present writ petition.

7. Consequently, the present writ petition is hereby dismissed.

(JASGURPREET SINGH PURI)
JUDGE

02.04.2024
Chetan Thakur

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