

230

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

CWP-17554-2022

Date of decision: 15.05.2024

SONIKA RANI

...Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

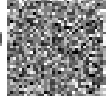
Present:- Mr. Virender Kumar, Advocate for the petitioner.

Mr. Gaurav Jindal, Addl. A.G., Haryana.

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 *certiorari* for quashing the impugned order of transfer of the petitioner dated 03.08.2022 (Annexure P-10) passed by respondent No.2-Chief Executive.

2. Learned counsel for the petitioner submitted that it is a case where the petitioner, who is a lady had made a complaint against respondent No.3 with regard to misbehaviour and the aforesaid respondent No.3 was working as a Personal Assistant to the Chairman of the respondent-Board. He further submitted that it was because of the pressure of respondent No.3 that the petitioner was transferred from Karnal to Panchkula vide Annexure P-10 on 03.08.2022. He further submitted that earlier also various additional charges were given to the petitioner at Yamuna Nagar, Hisar and Panchkula but so far as the additional charge of Panchkula is concerned, it was later on withdrawn and



she had been repeatedly requesting the authorities not to give her additional charge because she cannot travel but the impugned order Annexure P-10 has been passed because of the reason that she had made a complaint against respondent No.3 alleging misbehaviour. He also submitted that on the basis of complaint made by the petitioner, the same was found to be genuine and respondent No.3 has since been terminated from service.

3. Learned counsel for the petitioner also submitted that be that as it may be, when the aforesaid impugned order was passed on 03.08.2022, an interim order was passed by this Court at the time of issuance of notice of motion on 09.08.2022, wherein the operation of the impugned order dated 03.08.2022 (Annexure P-10) was stayed and in this way, the petitioner is already working at Karnal for about 1 year and 9 months. He further submitted that two minor children of the petitioner are studying in Class-III and Class-IV at Karnal and she is an asthmatic patient and is getting treatment from Karnal and therefore, the aforesaid order on the basis of *mala fide* may be set aside.

4. On the other hand, Mr. Gaurav Jindal, Addl. A.G., Haryana submitted that the transfer order has not been made on the basis of *mala fide* reasons but it was because of administrative reasons and transfer being an incidence of service, the petitioner cannot make a claim that she cannot be transferred anywhere. He further submitted that so far as the *mala fide* against the Chairman and Chief Executive is concerned, he has sought instructions to state that the Chief Executive, who has passed the aforesaid impugned order has been changed and some other officer is now working as Chief Executive and similarly, the Chairman of the respondent-Board is also different and now both the Chief Executive and the Chairman, who were there at the time of passing of

the impugned order are not in place and the new Chief Executive and Chairman have come and therefore, the present writ petition may be dismissed.

5. After hearing learned counsel for the parties, this Court is of the considered view that the petitioner, who is a lady having two minor children studying in Class-III and Class-IV was transferred from Karnal to Panchkula vide Annexure P-10 on 03.08.2022. Now as per the learned State counsel, higher authorities have already been changed and they are not on the aforesaid posts of Chief Executive and Chairman. However, on 09.08.2022 an interim order was passed by this Court by which the operation of the impugned order dated 03.08.2022 (Annexure P-10) was stayed and almost 1 year and 9 months have elapsed that the petitioner is working at Karnal.

6. Therefore, considering the aforesaid totality and circumstances of the present case and without commenting anything with regard to the allegation of *mala fide*, it will be just and proper that the Chief Executive and the Chairman, who are the new incumbents may take a fresh look into the matter.

7. In view of the above, the present writ petition is allowed. The impugned order dated 03.08.2022 (Annexure P-10) is hereby set aside. Respondent No.2-Chief Executive, Haryana Khadi & Village Industries Board, Panchkula is directed to take a fresh look with regard to as to whether the petitioner is to be transferred from Karnal to any other place or not in accordance with law and pass a fresh order in this regard.

15.05.2024
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

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