

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

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2024:PHHC:015151-DB

**CM-741-LPA-2024 in/and
LPA-932-2023 (O & M) and
COCP-2251-2023 (O & M)
Date of Decision: 05.02.2024**

Lt. Col. Ankush Batra

.....Appellant(s)

Versus

Union of India and others

....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA,
ACTING CHIEF JUSTICE
HON'BLE MS. JUSTICE LAPITA BANERJI**

Present: Mr. Ankush Batra, appellant-in-person.

Ms. Anita Balyan, Sr. Panel Counsel,
for Union of India.

G.S.SANDHAWALIA, ACTING CHIEF JUSTICE (Oral)

1. The appellant, in the present appeal, challenges the order dated 17.07.2023 passed by the Single Judge in CWP-13517-2023, Lt. Col. Ankush Batra vs. Union of India and others whereby, the Single Judge held that the appellant can again apply for pre-mature retirement which will be considered on merits as well as changed dynamics and cadre strength of the organization. The said process had to be completed within a period of 4 weeks from the date of filing fresh application and after granting opportunity of hearing. The subject matter of challenge in the writ petition was the transfer order dated 09.06.2023 (Annexure P-1 in the writ petition) wherein, the petitioner had been transferred from Chandimandir, Panchkula to his new unit located in Kolkata (West Bengal). It was thus, his grouse that the application for pre-mature retirement was already pending and without considering it, he had been posted out.

2. The co-ordinate Bench on 21.07.2023, taking this aspect into consideration, stayed the order of posting which had to remain in abeyance.

Apparently, on 14.09.2023 in pursuance of the order of the learned Single Judge, the respondents passed an order whereby they rejected the case of the appellant for pre-mature retirement. However, the benefit of remaining posted at Chandimandir, Panchkula was granted and the appellant had been allowed to continue at the present station. The relevant part of the order reads thus:-

“PREMATURE RETIREMENT FROM SERVICE IN RIO MR-07903A LT
GOL ANKUSH BATRA, JOINT DIRECTOR (HOSPITAL
SERVICES), REGIONAL CENTRE ECHS
CHANDIMANDIR

1. Ref the fwg-

a. Your HQ ASIGMA Msg No 52009/1/M-1/37 dt 16 Aug 2023 fwd appin to PMR from service dt 20 Jul 2023 in r/o MR-07903A Lt Col Ankush Betra, Joint Dir (Hospital Services) of Regional Centre ECHS Chandimandir.

b. Hon'ble Punjab and Haryana High Court Order dt 17 Jul 2023 in CWP 13517 2023 (O&M)

2. Fresh application for PMR dt 20 Jul 2023 submitted by the offr was re-examined by the competent authority and the competent authority rejected the same on the fwg grounds-

a. Significant defi in the cadre.

b. Organisational reqmt of intermediate Senior Level MOs for tenating Clinico Administrative/Clinico Manageial/Clinico Supervisory appts.

3. After grant of due hearing and considering the personal issues of the offr, the posting out order from present appt in r/o the offr is being processed for cancellation, in order to enable the offr to continue in present Station.

4. The offr be informed accordingly

Rita Minz
Dy Dir/DGMS-1A
for DGMS (Army)”

3. The appellant has tried to demonstrate from the said order by filing various applications and the information received under the Right to Information Act, 2005 that the orders passed were not by the competent authority.

4. We are of the considered opinion that it is open to the appellant to

retirement has been rejected since the specific case before the learned Single Judge was that his application for pre-mature retirement was not being processed though he had been transferred out. It is upto him to make the necessary pleadings in support of his claim that the order is without jurisdiction or passed by an officer who is not entitled under the Rules since the respondents have already granted the other relief regarding his posting order which was also subject matter of challenge. In our considered opinion, now there is not much left for us to decide in the present appeal which is directed against the order passed by the Single Judge.

5. Accordingly, the applications filed under Order 41 Rule 27 CPC and under Sections 340 Cr.P.C read with Section 195 Cr.P.C. are also disposed of in view of the fact that liberty is being given to the appellant to avail of his remedy before the learned Single Judge.

6. Accordingly, the applications as well as the main appeal, after pre-poning it from 11.03.2024, stand disposed of.

7. Keeping in view the above detailed order passed in the main appeal, we see no ground to entertain the contempt petition i.e. COCP-2251-2023 which has arisen out of the interim order passed in the main appeal. Accordingly, COCP-2251-2023 also, after pre-poning it from 11.03.2024, stands disposed of. Rule discharged.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

05.02.2024
shivani

(LAPITA BANERJI)
JUDGE

Whether reasoned/speaking	Yes
Whether reportable	No