



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

CWP-28859-2018 (O&M)
Date of Decision : 13-12-2024

AMIT SHARMA

.....Petitioner

VERSUS

STATE OF PUNJAB AND ORS

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Samrat Malik, Advocate
 for the petitioner.

Mr. Amarpreet Singh Bains, AAG Punjab.

Mr. J.S Ghumman, Advocate for the
Applicant-proposed respondent Nos.4 to 11.

HARSIMRAN SINGH SETHI, J. (Oral)

CM-3965-CWP-2019

The present application has been filed for impleading the applicants as respondent Nos.4 to 11 in the writ petition.

Keeping in view the contents mentioned in the application, the same is allowed. Applications are impleaded as respondent Nos.4 to 11 in the writ petition.

Registry is directed to make necessary corrections by impleading respondent Nos.4 to 11 in the main petition.

CWP-28859-2018 (O&M)

In the present petition, the grievance being raised by the petitioner is that the petitioner was appointed by way of transfer as Senior Assistant in the office of Deputy Commissioner, Jalandhar which post the petitioner joined and was ultimately confirmed. Now the parent Department where the petitioner was earlier working i.e. Department of General Administration, is re-calling the petitioner back to be posted in Secretariat on the ground that the other employees are also claiming the same benefit hence, in order to deny them the benefit, the benefit granted to the petitioner, the petitioner needs to be recalled back to the previous Department of General Administration to be posted as Senior Assistant in the Punjab Civil Secretariat.

Learned counsel for the petitioner submits that once the “No Objection” was granted by all the authorities concerned before transferring the petitioner to the office of Deputy Commissioner, Jalandhar reconsidering the same only on the ground that other employees are also seeking the same benefit and in order to deny them their claim, the benefit granted to the petitioner may also be withdrawn, is incorrect.

Learned Senior counsel submits that the petitioner has already been confirmed as a Senior Assistant in the office of Deputy Commissioner, Jalandhar hence, the request made by the Department of General Administration, Government of Punjab to repatriate the petitioner, is liable to be set aside.

Upon notice of motion, the respondents have filed their reply. In the reply, the respondents have stated that the facts mentioned in the writ petition are not disputed. However, the only reason why petitioner is being

re-called is that there is a shortage of manpower in the Department of General Administration, Government of Punjab which is why the petitioner is required there.

Learned counsel for the respondent submits that at the time, when the petitioner was sought to report back in the Department of General Administration, Government of Punjab, he was not confirmed in the office of Deputy Commissioner, Jalandhar hence, Deputy Commissioner, Jalandhar should have reverted back the petitioner to the office of Department of General Administration, Government of Punjab rather than confirming him subsequently to the request made by the Department of General Administration, Government of Punjab qua the repatriation of the petitioner to the said Department.

I have heard learned counsel for the parties and have gone through the records of the present case with their able assistance.

It is a clear case what the petitioner intended for transfer from the Department of General Administration, Government of Punjab, where he was serving as Senior Assistant, to be appointed as Senior Assistant in the office of Deputy Commissioner, Jalandhar as all the requisite Department i.e. the parent Departments i.e. the Department of General Administration, Government of Punjab as well as the office of Deputy Commissioner, Jalandhar where he was sought to be transferred raised no objection for the said transfer and the petitioner was transferred from the Department of General Administration, Government of Punjab to the office of Deputy Commissioner, Jalandhar. There was a condition attached with the transfer that the petitioner will lose his seniority in the cadre of Senior Assistant which is maintained in the Department of General Administration,

Government of Punjab and will get a fresh seniority in case, he joins the office of Deputy Commissioner, Jalandhar as Senior Assistant. The petitioner agreed to the same. While the petitioner was working in the office of Deputy Commissioner, Jalandhar there, he was sought to be called back to the Department of General Administration, Government of Punjab on the ground that certain other officials were also claiming said benefit which the Department never wanted to give them but as the said benefit was given to the petitioner, in order to deny the other employees the said benefit extended to the petitioner was sought to be withdrawn especially, when the petitioner was yet to be confirmed as Senior Assistant in the office of the Deputy Commissioner, Jalandhar.

Merely, that the respondents did not want to give the benefit of transfer to other employees, cannot be a ground to recall the benefit extended to the petitioner which was extended to him after due consideration of the facts. Once, the petitioner had already been transferred, the said order cannot be recalled merely on the ground that other employees were also claiming the said benefit. In case, the respondents did not want to grant relief to the other employees, as granted to the petitioner, nothing stopped the Department of General Administration, Government of Punjab to decline their claim. The Department of General Administration, Government of Punjab cannot direct the petitioner to join back so as to decline the similar claim of the other employees.

Further though, the Department of General Administration, Government of Punjab recalled the petitioner to join back to the Department of General Administration, Government of Punjab from the office of the Deputy Commissioner, Jalandhar at a time, the petitioner was not confirmed

in the office of Deputy Commissioner, Jalandhar but once, later on, the petitioner had already been confirmed in the office of the Deputy Commissioner, Jalandhar, the jurisdiction of Department of General Administration, Government of Punjab to recall the petitioner from the office of the Deputy Commissioner, Jalandhar ceases hence, the petitioner cannot be recalled now by the Department of General Administration, Government of Punjab to work there. The petitioner is entitled to continue in the office of Deputy Commissioner, Jalandhar.

As the petitioner had already been confirmed though the said order was later on withdrawn, the order withdrawing the confirmation of the petitioner, is also not voluntary but keeping in view the facts and circumstances mentioned hereinbefore hence, the petitioner be also considered as a confirmed employee in the office of Deputy Commissioner, Jalandhar keeping in view the order passed on 15.06.2018 (Annexure P-19).

Further, with regard to the contention that the other employees are also asking for the same benefit, it may be noticed that the grant of transfer is within the domain of the Department and in case, they do not want to give anybody else the same benefit, they can pass appropriate order giving due reasons for the same but, the benefit extended to an employee, cannot be withdrawn on that ground. Impugned orders are set aside.

The present petition is allowed in above terms.

Pending application, if any, also stands disposed of.

13-12-2024
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE: Whether speaking: YES/NO
Whether reportable: YES/NO