



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

CWP-20932-2024 (O&M)

Date of Decision : 02-09-2024

.....Petitioner

VERSUS

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Vishal Garg Narwala, Advocate with
Mr. Arishdeep Mraad, Advocate,
Mr. Khushwant Saharam, Advocate and
Mr. Nitin Bansal, Advocate for the petitioner.

Mr. Satnampreet Singh Chauhan, DAG Punjab.

HARSIMRAN SINGH SETHI, J. (Oral)

In the present petition, the challenge is to the order of transfer dated 14.08.2024, copy of which has been appended as Annexure P-5 by which the petitioner, working as Superintendent Grade-II in the Department Soil Conservation Officer has been transferred from Gurdaspur to Ferozepur and the private respondent, who was posted on the same post in Ferozepur has been posted in Gurdaspur on his own request. Learned counsel for the petitioner submits that the petitioner posted at Gurdaspur from Ferozepur after the private respondents was transferred from Gurdaspur to Ferozepur in May, 2023 whereas, again in order to bring private respondent to Gurdaspur, the petitioner has been dislodged from Gurdaspur.

Learned counsel for the petitioner further submits that in case the transfer of the petitioner as well as private respondent is before completing the minimum tenure of 3 years at the respective place of posting and the transfer of private respondent is on his own request hence, the same can only be ordered against a vacant post not to displace any employee and in this case, the petitioner, who had only joined in Gurdaspur in May, 2023.

Notice of motion.

Mr. Satnampreet Singh Chauhan, DAG Punjab accepts notice on behalf of the respondent-State.

The private respondents is on caveat. Learned counsel for the private respondents submits that the private respondent who was working at Gurdaspur till May, 2023, was posted at Ferozepur but keeping in view the certain family reasons, on a representation made, his request to transfer him to Gurdaspur was accepted and therefore, merely that the petitioner has spent one year of service at Gurdaspur before he is being transferred to Ferozepur, cannot be made a ground to deny the private respondent the benefit of transfer from Ferozepur to Gurdaspur.

In order to ascertain as to how much time both i.e. the petitioner as well as the private respondents have served at Gurdaspur, the State counsel was directed to seek information.

The State counsel on the basis of the written instructions received from the Chief Conservator of Soil, Punjab submits that the out of total 29 years of service, petitioner Pawan Kumar has served for a period of 25 years in Gurdaspur. Similarly, out of 27 years of service of his total service, private respondent Manjit Lal, has spent 26 years of his service at

Gurdaspur. He has only gone out of Gurdaspur in May, 2023 to Ferozepur and has again been brought back to Gurdaspur by the impugned order (Annexure P-5).

From the said averments, it shows that both the petitioner and the private respondents have served in Gurdaspur for approximately 95% of their career service, whereas the maximum stay for a person to serve at a particular station is only 5 years as per the Transfer Policy.

Keeping in view the fact stated hereinbefore while accepting the request of the private respondent-Manjit Lal, to post him at Gurdaspur, these facts have not been taken into account whether, he is liable to be brought back at Gurdaspur especially when, more than 95% of his total service is at Gurdaspur. Similarly, the petitioner also has more than 95% of his total service at Gurdaspur hence, it would be appropriate that the transfer orders of the petitioner as well as the private respondent be re-considered by the Department and appropriate order be passed transferring them both i.e. the petitioner as well as the private respondent out of Gurdaspur so that, the transparency in the transfers could be seen. From the fact which has come to the notice of the Court, only the petitioner and the private respondent have served at Gurdaspur rather than giving the chance to the other employees of the Department to serve the Department at Gurdaspur as well.

Let the respondents pass an appropriate order upon the re-consideration of the transfer of the petitioner as well as the private respondent and post them outside Gurdaspur at a place available for them. Let the appropriate order be passed within a period of one week from the receipt of copy of this order.

Hence, the present petition is disposed of in the above terms.

After the compliance of the present order so as to post both the petitioner as well as private respondent outside Gurdaspur, in case in future, either petitioner or private respondent makes a request of extreme medical emergencies, to be posted in Gurdaspur, the competent authority will consider the said claim subjectively and in case, the said authority is convinced that the request for transfer on the extreme medical emergency being projected is correct and non-acceptance of the prayer will result in irreparable loss, the competent authority can pass appropriate orders posting either the petitioner or the private respondent as the case may be to Gurdaspur. This discretion is being given to the competent authority believing that the decision will be taken on merits without being influenced in any manner from any quarter.

Pending application, if any, also stands disposed of.

02-09-2024
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

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