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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-23468-2024

Date of decision: 18.09.2024

KRISHAN KUMAR

...Petitioner(s)

VERSUS

STATE OF HARYANA AND OTHERS

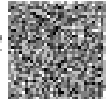
...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Pardeep Sharma, Advocate
for the petitioner.

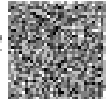
JASGURPREET SINGH PURI, J.

1. The present writ petition has been filed under Article 226 of the Constitution of India seeking issuance of a writ in the nature of *certiorari* for quashing the impugned order dated 15.07.2024 (Annexure P-19) passed by respondent No.5 ignoring the conclusion of the detailed inquiry reports with a further prayer to direct respondents No.1 to 13 to direct the private respondents No.14 and 15 to comply with the office order dated 22.12.2023 (Annexure P-6) and also to direct respondents No.1 to 4 to take administrative action against the defaulting officials/officers who have misused the power by not obeying the order of the competent authority and to consider the vigilance report dated 29.10.2022 and take action as per law on the conclusion of inquiry report of Station House Officer i.e. Annexure P-3 dated 29.10.2022 and also to direct respondents No.1 to 4 not to transfer private respondents No.14 and 15 in Kurukshetra Circle in future.



2. Learned counsel for the petitioner while giving the brief facts of the present case submitted that the petitioner is working in the respondent-Nigam as Lower Division Clerk (LDC) and he submitted a complaint dated 12.04.2022 (Annexure P-1) to the Managing Director of the respondent-Nigam against the private respondents No.14 and 15, namely, Krishan Chauhan, Junior Engineer (JE) and Ravinder Kumar, Assistant Foreman (AFM), respectively, alleging loss of lakhs of rupees being caused to the respondent-Nigam every month. He further submitted that thereafter, the aforesaid complaint was processed and the Additional Director General of Police-cum-Director Vigilance, HPU, Panchkula appointed Inspector Om Parkash, Station House Officer, Police Station Irrigation and Electricity Vigilance Department, Ambala as Investigating Officer, who conducted the inquiry and submitted a report vide Annexure P-3 dated 29.10.2022, whereby he recommended the transfer of the private respondents No.14 and 15 out of Kurukshetra circle.

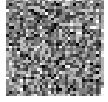
3. Learned counsel for the petitioner also submitted that thereafter, on the basis of the aforesaid recommendation of the Station House Officer, Police Station Irrigation and Electricity Vigilance Department, Ambala, no action was taken for about one year by the respondent-Nigam and the petitioner pursued his complaint before the Chief Minister of Government of Haryana for taking action on the inquiry report of the aforesaid Station House Officer and thereafter, on 22.12.2023 vide Annexure P-6 the private respondents No.14 and 15 were transferred out of Kurukshetra circle. He further submitted that despite the transfer order being passed vide Annexure P-6 the private respondents No.14 and 15 did not comply with the aforesaid transfer order and continued working on the same place of posting despite transfer order being issued.



Thereafter, vide impugned order dated 15.07.2024 (Annexure P-19) the aforesaid private respondents were again transferred back to Kurukshetra. He further submitted that despite the recommendation of the Station House Officer, Police Station Irrigation and Electricity Vigilance Department, Ambala for transferring the private respondents No.14 and 15 out of Kurukshetra circle, they have again been transferred back to Kurukshetra vide Annexure P-19 and therefore, the aforesaid order Annexure P-19 may be set aside and direction may be issued to the respondent-Nigam to transfer the aforesaid private respondents out of Kurukshetra circle in consonance with the recommendation of the Station House Officer, Police Station Irrigation and Electricity Vigilance Department, Ambala in the inquiry report and also to take action against the officials who did not take any action against the private respondents No.14 and 15 for not obeying the order despite being transferred vide Annexure P-6.

4. I have heard the learned counsel for the petitioner.

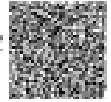
5. It is a case where the petitioner is working as a Lower Division Clerk (LDC) in the respondent-Nigam, whereas private respondents No.14 and 15, namely, Krishan Chauhan and Ravinder Kumar are working as Junior Engineer (JE) and Assistant Foreman (AFM), respectively, in the same Nigam. The petitioner is a complainant in the aforesaid complaint (Annexure P-1) on the basis of which inquiry was conducted by the Station House Officer, Police Station Irrigation and Electricity Vigilance Department, Ambala. The grievance of the petitioner is that despite recommendation of the Station House Officer for transferring the private respondents No.14 and 15 out of Kurukshetra circle, the transfer order (Annexure P-6) was passed after about a year of the aforesaid recommendation but the aforesaid private respondents did not even comply



with the aforesaid transfer order and it is the prayer of the petitioner that direction may be issued to the respondent-Nigam to transfer the aforesaid private respondents out of Kurukshetra circle in consonance with the recommendation of the Station House Officer, Police Station Irrigation and Electricity Vigilance Department, Ambala.

6. A perusal of the aforesaid recommendation of the Station House Officer, Police Station Irrigation and Electricity Vigilance Department, Ambala would show that after dealing with the entire inquiry report (Annexure P-3), the Station House Officer, Police Station Irrigation and Electricity Vigilance Department, Ambala recommended the transfer of private respondents No.14 and 15 out of Kurukshetra circle. On the basis of aforesaid recommendation, aforesaid private respondents were transferred vide Annexure P-6 on 22.12.2023 and now the aforesaid private respondents have again been transferred back to their earlier place of posting i.e. Kurukshetra vide Annexure P-19.

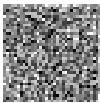
7. After hearing the learned counsel for the petitioner, this Court is of the considered view that Annexure P-3 is an inquiry report made by the Station House Officer, Police Station Irrigation and Electricity Vigilance Department, Ambala and it was only a recommendation by the aforesaid Station House Officer to transfer the aforesaid private respondents out of Kurukshetra circle. Firstly, the recommendations are never binding on the competent authority and secondly, there is no document to show that any internal inquiry of the respondent-Nigam has been done with regard to the allegations made by the petitioner. The competence of a Police Officer, who is the Station House Officer for recommending transfer of an employee is also doubtful as to whether the



Station House Officer, Police Station Irrigation and Electricity Vigilance Department, Ambala was competent to even recommend the transfer of an employee because the same can only be done by the competent authority after due application of mind or when some disciplinary proceedings are pending as an in-house mechanism. Furthermore, the aforesaid transfer order (Annexure P-6) has been effected although belated but the same has now been reverted back to the original position vide Annexure P-19.

8. This Court is also of the considered view that the petitioner does not have any *locus* to challenge the transfer order of some other employees. It is not a case that with the transfer of the aforesaid private respondents No.14 and 15 the petitioner's place of posting is being disturbed and especially in view of the fact that the petitioner is only a Lower Division Clerk (LDC), whereas the private respondents No.14 and 15 are Junior Engineer (JE) and Assistant Forman (AFM), respectively and the cadre is also different but the mere fact that the petitioner was a complainant in the aforesaid complaint cannot confer any *locus* upon the petitioner to have challenged the order of transfer. It is the internal departmental matter of the respondent-Nigam to consider as to whether an employee should be transferred or not and it lies within the prerogative of the competent authority to transfer an employee or not and no right is vested in the petitioner for seeking transfer of some other employee as the petitioner is not even adversely affected by the same. The present writ petition is therefore liable to be dismissed on the ground of lack of *locus* and also as being not maintainable.

9. Therefore, the present writ petition is not only not maintainable but also frivolous in nature. Ordinarily this Court would have considered imposition



of exemplary costs upon the petitioner for filing such a frivolous petition but taking a lenient view, this Court is of the considered view that no costs may be imposed upon the petitioner.

10. Consequently, finding no merit in the present writ petition, the same is hereby dismissed.

18.09.2024
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

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