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2024:PHHC:124497

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

CWP-23194-2024 (O&M)

Date of decision : 19.09.2024

Navvarinder Singh

Petitioner

VS.

State of Punjab and others

Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. G.S.Nahel, Advocate for the petitioner.
Ms. Neha Sonawane, DAG, Punjab.

DEEPAK MANCHANDA, J.

CM-15388-2024

The application is allowed as prayed for.

Medical record of the petitioner (Annexure P-7) is taken on record.

Main Case

The present writ petition has been filed under Articles 226/227 of the Constitution of India praying for quashing the impugned order dated 31.08.2024 (Annexure P-3) passed by respondent No.2, whereby petitioner was posted/transferred to Division Shaheed Bhagat Singh Nagar.

2. The impugned order has been challenged by the petitioner alleging the same being against the Transfer Policy of Punjab Government dated 23.04.2018 (Annexure P-6) and seeking quashing of the same on the premise that the petitioner is suffering from Coronary Artery Disease (CAD) i.e.

Coronary Heart Disease (CHD) and is getting regular treatment for the same from PGI, Chandigarh.

3. The brief facts emanating from the pleadings are that petitioner joined the services as Steno-Typist on 04.06.2001 at Rural Water Supply, Division, Pathankot and was transferred at various places i.e. Ropar, Fatehgarh Sahib etc. from time to time. On 05.05.2016, the petitioner was promoted as Senior Assistant at Water Supply and Sanitation Circle Office, Patiala and thereafter transferred at various places i.e. Division No.3 SAS Nagar, Division Rajpura, Chandigarh etc. from time to time. Unfortunately, the petitioner suffered a heart attack on 07.12.2020 and got admitted in PGI, Chandigarh and is still getting follow up treatment for the same. Further, the petitioner was promoted as Superintendent Grade-II, vide order dated 29.08.2024 (Annexure P-2) and consequent on his promotion vide the impugned order dated 31.08.2024 (Annexure P-3), he was transferred to Division Shaheed Bhagat Singh Nagar. Hence this writ petition.

4. Learned counsel for the petitioner contends that impugned transfer order qua the petitioner is against the Transfer Policy of Punjab Government, 2018 which lays down that before the transfer/posting of an employee suffering from chronic disease three convenient options needs to be obtained and after taking three convenient options from the concerned employee, his transfer/posting may be ordered at any of the opted stations and request of such employee will be considered as a special case. He further contends that considering the medical condition of the petitioner, he can be adjusted at Circle Chandigarh, i.e. Division No.1, Mohali from where respondent No.5 was transferred to Mechanical Division, Patiala vide order dated 30.06.2023, and

who was again transferred back to Mohali within 1 year and 2 months in violation of Transfer Policy. He also contends that petitioner can also be adjusted at Division No.3, Mohali where respondent No.6 joined as Clerk, got promotions as Senior Assistant and Superintendent Grade-II who remained posted for the last approximately 20 years and has never been transferred even once out of District Mohali. He submits that the petitioner is to look after his wife and old aged widowed mother, who is suffering from various ailments.

5. On the other hand, learned State counsel submits that there is no illegality, arbitrariness or *mala fide* in the impugned order, which has been passed due to administrative reasons and in public interest, as vide impugned order, transfers and postings of as many as 136 employees including 27 Superintendent Grade-II have been made, wherein the petitioner is at Sr. No.22 of the said order and on account of his promotion as Superintendent Grade-II he was available for posting, and hence has been posted at Division Shaheed Bhagat Singh Nagar. Therefore, she prays for dismissal of the writ petition.

6. I have heard the learned counsel for the parties

7. As discussed above, the petitioner has challenged his transfer and posting order being against the Transfer Policy (Annexure P-6). Para Nos.1.1, 1.2 pertains to “Tenure” and Para No.2 of the policy pertains to “Special Case”.

Para No.2 of the Transfer Policy reads as under :-

“*SPECIAL CASE:*

2(a) Under the conditions given above in Para 1.1 and 1.2, at the time of ordering the postings and transfers, taking three convenient options from the concerned employee in the following cases, his transfer/ posting may be ordered at any one station. In this connection, the preference may be given respectively as under :-

- (i) *Blind employee;*
- (ii) *Disabled/handicapped employee or the child of which employee may not be mentally well or may be victim of any grave serious disease.*
- (iii) *Unmarried girls and widow women;*
- (iv) *Couple case(where both the husband and wife may be employees of the Government Department/Board/Corporation/public undertakings)*
- (v) *Such employees, the period of which may be less than the period of two years for the retirement from the service;*

However, due to administrative reasons if any posting/transfer is not possible as aforestated, then it will not be binding upon the competent authority to follow the aforesaid process.”

8. The medical record of the petitioner is annexed as Annexure P-7, the same would reveal that petitioner got admitted in PGI, Chandigarh on 07.12.2020 and was discharged on the next day i.e. 08.12.2020 and was advised to follow his treatment. The Discharge and Follow up Card of the petitioner depicts the date(s) viz. 23.01.2021, 07.08.2021, 12.02.2022, 10.08.2022, 08.04.2023, 13.01.2024, 10.07.2024, when the petitioner visited PGI, Chandigarh for follow up and the last date of his visit was 14.09.2024.

9. In view of the given facts and circumstances of the case, read with para 2 of the Transfer Policy, this Court is of the view that the case of the petitioner does not fall within the exception(s) as contained in para 2(a)(i), (ii), (iii), (iv), (v). Merely on the ground that the petitioner remained admitted for one day in the PGI and is getting follow up treatment is not a sufficient ground to interfere with the impugned transfers and postings which have been made

for the administrative reasons and in public interest. Since, the impugned transfer order does not suffer from any illegality, this Court is of the opinion that transfer and postings are the discretion of the concerned State Authorities, who can assess the necessities and the administrative requirements. It can very well be said that the case of the petitioner falls under the exception made under ‘Special Case’ of the Transfer Policy, and it is well settled that Courts must not ordinarily interfere in administrative matters and should maintain judicial restraint. Therefore, this Court is not inclined to interfere with the impugned order dated 31.08.2024 (Annexure P-3) qua the petitioner, as prayed for. Moreover, the petitioner has since joined his present posting, on promotion as Superintendent Grade-II, at SBS Nagar.

10. Resultantly, finding no merit in the writ petition, the same is accordingly dismissed.

(DEEPAK MANCHANDA)
JUDGE

19.09.2024
vanita

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No