

CWP-23260-2024

2024:PHHC:120698



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

**CWP-23260-2024 (O&M)
Date of decision : 13.09.2024**

Kulwinder Singh

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Deepak Arora, Advocate,
for Mr. Kuldeep Kumar Sarthi, Advocate,
for the petitioner.

MAHABIR SINGH SINDHU, J.

Present writ petition has been filed under Article 226 of the Constitution for quashing of the order impugned dated 31.08.2024 (P-2) qua petitioner, whereby, he was transferred from from Shahpurkandi, Pathankot to Ferozepur.

2. Facts are not in dispute.

3. Briefly stated that petitioner was appointed as Welder on 25.11.1991; subsequently promoted as Driver as on 21.02.1995; and since then, he has been working as such at Shahpurkandi, Pathankot. However, vide the impugned order, petitioner stands transferred from ‘(Chief Engineer/Dams) Executive Engineer, Dam and Spill way



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Division, Shahpurkandi Township to E.E./Vigilance and Quality Assurance Division, Ferozepur.

4. Hence, present writ petition.

5. It is contended by learned counsel for the petitioner that petitioner is supporting a family consisting of his wife, old-age mother suffering from many ailments and children. That apart, petitioner has also developed some serious health issues, including Osteoporosis; the distance between two stations is more than 250 kms. and as such it will be extremely difficult for him to join at the transferred place.

6. Heard learned counsel for the petitioner and perused the paper-book.

7. Concededly, petitioner is about 52 years of age and there is no material on record to indicate that he is suffering from any ailment, much less to say serious disease. The argument that he has to maintain his ailing mother and children would be of no help for the simple reason that, as per service rules, petitioner is liable to serve in the entire State and as such, he cannot insist for posting at a place of his choice merely on that count.

8. Hon'ble the Supreme Court in **Shilpi Bose (Mrs.) and others Vs. State of Bihar and others, 1991 Supp (2) SCC 659** while dealing with a transfer matter, held as under:-

“4. In our opinion, the Courts should not interfere with a transfer order which is made in public interest and for administrative reasons unless the transfer orders are made in violation of any mandatory statutory rule or on the ground of mala fide. A government servant holding a transferable post has no



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vested right to remain posted at one place or the other, he is liable to be transferred from one place to the other. Transfer orders issued by the competent authority do not violate any of his legal rights. Even if a transfer order is passed in violation of executive instructions or orders, the courts ordinarily should not interfere with the order instead affected party should approach the higher authorities in the Department. If the courts continue to interfere with day-to-day transfer orders issued by the government and its subordinate authorities, there will be complete chaos in the Administration which would not be conducive to public interest. The High Court over looked these aspects in interfering with the transfer orders.”

9. Still further, in **Union of India and others Vs. S.L.**

Abbas, (1993) 4 SCC 357, Hon’ble the Supreme Court in paragraph

No.7, observed as under:-

“7. Who should be transferred where, is a matter for the appropriate authority to decide. Unless the order of transfer is vitiated by mala fides or is made in violation of any statutory provisions, the court cannot interfere with it. While ordering the transfer, there is no doubt, the authority must keep in mind the guidelines issued by the Government on the subject. Similarly if a person makes any representation with respect to his transfer, the appropriate authority must consider the same having regard to the exigencies of administration. The guidelines say that as far as possible, husband and wife must be posted at the same place. The said guideline however does not confer upon the Government employee a legally enforceable right.”

10. Again, Hon’ble the Supreme Court while reiterating the

legal position while dealing with transfer matters in **State of U.P. and**

others Vs. Gobardhan Lal, (2004) 11 SCC 402 held as under:-



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“7. It is too late in the day for any Government Servant to contend that once appointed or posted in a particular place or position, he should continue in such place or position as long as he desires. Transfer of an employee is not only an incident inherent in the terms of appointment but also implicit as an essential condition of service in the absence of any specific indication to the contra in the law governing or conditions of service. Unless the order of transfer is shown to be an outcome of a mala fide exercise of power or violative of any statutory provision (an Act or Rule) or passed by an authority not competent to do so, an order of transfer cannot lightly be interfered with as a matter of course or routine for any or every type of grievance sought to be made. Even administrative guidelines for regulating transfers or containing transfer policies at best may afford an opportunity to the officer or servant concerned to approach their higher authorities for redress but cannot have the consequence of depriving or denying the competent authority to transfer a particular officer/servant to any place in public interest and as is found necessitated by exigencies of service as long as the official status is not affected adversely and there is no infraction of any career prospects such as seniority, scale of pay and secured emoluments. This Court has often reiterated that the order of transfer made even in transgression of administrative guidelines cannot also be interfered with, as they do not confer any legally enforceable rights, unless, as noticed supra, shown to be vitiated by mala fides or is made in violation of any statutory provision.”

11. In view of the above legal position, it is apparently clear that transfer of an employee is incident of service and it would be an essential condition as well.

12. Consequently, there is no option except to dismiss the petition.

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13. Ordered accordingly.
14. It is clarified that, respondents may at their own level consider the representation dated 05.09.2024 (P-5) of petitioner, while examining his individual hardship and this order be not treated as a bar to that effect.
15. Pending application(s), if any, shall also stand disposed off.

13.09.2024
atulsethi/Harish Kumar

(MAHABIR SINGH SINDHU)
JUDGE

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