



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-34733-2024

Date of decision: 28.01.2025

RAVINDER SINGH

.....Petitioner

VERSUS

UNION OF INDIA AND OTHERS

.....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: - Mr. Aditya Yadav, Advocate
for the petitioner.

Ms. Jyoti Chaudhary, Senior Panel Counsel
for respondent No.1-Union of India.

Mr. Anil Kumar Ahuja, Advocate
for respondents No. 3 to 5.

VINOD S. BHARDWAJ, J. (Oral)

The petitioner has approached this Court for raising a challenge to the impugned order dated 19.10.2024 whereby the respondents rejected the representation submitted by the petitioner against his transfer from Regional Office, Hisar to Regional Office, Rajkot without any exigency or public interest and allegedly in violation of the policy instructions as well as the provisions of the Rights of Persons with Disabilities Act, 2016 and directions issued by the Govt. of India.

2. Learned counsel appearing on behalf of the petitioner *inter alia* contends that the petitioner was appointed as Manager (Legal) with the respondent-Bank and joined as such on 28.06.2014 at New Delhi.

Thereafter, he was transferred to Regional Office, Aligarh on 26.06.2019



where he remained posted till 27.08.2021. He was again transferred to Regional Office, Karnal where he served till 2022 and on his transfer thereafter, he has been working in the Regional Office, Hisar. He contends that the petitioner is suffering from 45% disability in relation to his one leg and as such, he is entitled to be considered for the benefits under the Right of Persons with Disabilities Act, 2016 as notified by the Government of India. He has argued that the petitioner was married in the year 2014 and was blessed with two children. It is contended by the counsel for the petitioner that the respondent-Bank has issued a circular to all Branches/Offices in India circulating the guidelines on transfer of officers. As per Clause 5.4 thereof, the category of employees viz. Physically Handicapped Officers and Officers having differently abled dependents is a category that may be exempted by the Bank from the rotational transfer policy. He further contends that the respondent-Bank had also issued certain guidelines under the equal opportunity policy pertaining to rights of persons with disabilities and as per Clause 4.4. thereof, the transfer and employment of Persons with disabilities was to be governed by the transfer policy of the Bank prevailing at the relevant time and the Bank is bound to scrupulously comply with the guidelines issued by the Government of India for deployment of employees with disabilities.

3. Reference is also made to the office memorandum circulated by the Ministry of Personnel, Public Grievances and Pensions, Government of India Vide Memo No. 36035/44/2023-Establishment (Res-II). As per Clause-H thereof, while dealing with preference in transfer/posting pertaining to Persons with disabilities, it is specifically prescribed that such



persons may be exempted from the rotational transfer policy and be allowed to continue with the same job where they would have achieved the desired performance. Further, preference in the place of posting at the time of transfer/promotion may also be given to the persons subject to the administrative constraints.

4. Reliance is also placed on the office memorandum issued by the Ministry of Finance vide DPE-GM-0043/2014-GM (FIS-1899) dated 05.04.2023 in relation to the communication sent by the Court of Chief Commissioner for Persons with Disabilities (Divyangjan) for ensuring adherence to the provisions/guidelines relating to transfer of Divyangjan employees. As per the directions so issued, it has been re-agitated that the Divyangjan employees should not even be transferred on promotion if vacancies exist in the same branch or in the same town and that if it is not possible to retain the Divyangjan employees at the place of posting due to administrative exigencies, then he must be kept nearest to his original place and should not be transferred at far off or remote place of posting.

5. Learned Counsel for the petitioner contends that all the aforesaid office memorandums/guidelines and policy notified by the respondent-Bank and issued by the Government of India have not been taken into consideration in the impugned communication dated 05.12.2024 sent by the respondent-authorities. He contends that the petitioner could not have been transferred and if such an exigency really exists, then the petitioner can be transferred to regional offices that are in and around the same zone viz. in Karnal, Chandigarh, Delhi and Ludhiana etc. and there is no justification for transferring the petitioner to Rajkot in Gujarat.

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6. Learned Counsel appearing on behalf of the respondent-Bank prays for some time, however, he is not in a position to rebut that contention that the aforesaid policies/instructions issued by the Government of India as well as the policies notified by the Bank itself have not been referred to in the said communication. Hence, in the said background, the impugned communication/order dated 05.12.2024 suffers from non-appreciation of the guidelines/instructions and policy decision taken by the Government of India and as applicable to the respondent-Bank itself.

7. In view of the above, the present writ petition is disposed of and the respondents are directed to take a fresh decision on the prayer made by the petitioner by treating the present writ petition as a representation and pass a reasoned order after noticing the applicable governing guidelines/instructions in relation to transfer and posting of disabled persons claiming benefit under the Rights of Persons with Disabilities Act, 2016. Let a fresh decision be taken within a period of six weeks from receipt of certified copy of this order.

8. Needless to mention that the parties shall maintain a *status quo* till a fresh decision is taken by the respondents without being influenced by the decision already taken and impugned herein.

(VINOD S. BHARDWAJ)
JUDGE

JANUARY 28, 2025
Vishal Sharma

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