
(2016) 08 P&H CK 0188
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 15653 of 2016 (O&M)

Birender Kumar Kardam

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 04-08-2016

Acts Referred:

Haryana Municipal Corporation Employees (Recruitment and Conditions) Service Rules, 1998 — Rule 11, Rule 12, Rule 2(g)

Citation : (2017) 1 SCT 384

Hon'ble Judges : Tejinder Singh Dhindsa, J.

Bench : Single Bench

Advocate : Johan Kumar, Advocate, for the Petitioner

Final Decision : Dismissed

Judgement

Tejinder Singh Dhindsa, J. - The petitioner, who is serving on the post of Executive Engineer, has filed the instant petition assailing the order dated 31.7.2016 (Annexure P-1) issued by the Principal Secretary to Govt. Haryana, Urban Local Bodies Department and in terms of which he has been transferred from Municipal Corporation, Faridabad to Municipal Corporation, Gurgaon.

2. The contention raised by counsel is that by virtue of such transfer the chances of promotion of the petitioner to the higher post would be adversely effected. It is further submitted that the common seniority of the employees across the Municipal Corporations, Haryana has not been maintained and under such circumstances the petitioner could not have been transferred from one Corporation to another. Reliance has also been placed upon document placed on record at Annexure P-2 to contend that employees of Municipal Corporation, Faridabad would be considered for promotion against vacancies falling in Municipal Corporation, Faridabad only. Even on the strength of Annexure P-2 it is contended that the petitioner could not have been displaced from Faridabad and sent to Gurgaon.

3. Having heard learned counsel for the petitioner at length, this Court is of the considered view that the present petition is bereft of merit and deserves dismissal.

4. The service conditions of the petitioner are governed by the Haryana Municipal Corporation Employees (Recruitment & Conditions) Service Rules, 1998. Rule 2(g) defines service as the Haryana Municipal Corporation Employees (Recruitment & Conditions) Service. Rule 11 governs seniority inter se members of the service and stipulates that the same would be determined by the length of continuous service on any post in the service. Rule 12 would clarify the entire issue and the same postulates that a member of service shall be liable to serve at any place and in any Municipal Corporation in the State of Haryana on being ordered to do so by the appointing authority or the State Govt.

5. The petitioner being a member of the Haryana Municipal Corporation Employees (Recruitment & Conditions) Service is certainly opened to be transferred from one Corporation to another.

6. The document placed on record at Annexure P-2 is in the nature of notings contained in a file. It is by now well settled that notings contained in a departmental file do not vest any right in favour of an employee. Such rights are crystalized only upon conscious decisions having been taken and orders in relation thereto having been passed. In any case an intra departmental noting on a file cannot operate so as to supersede or defeat statutory rules governing conditions of service.

7. This Court also takes notice of a document appearing at page 22 of the paper book and which would clearly show that one Sh. Anil Mehta, Executive Engineer in Municipal Corporation, Faridabad has been posted to Municipal Corporation, Panchkula upon being promoted to the post of Superintending Engineer. This itself would belie the claim and assertion of the petitioner that while serving as Executive Engineer at Municipal Corporation, Faridabad he could not have been transferred to a different Corporation.

8. In view of the observations made herein above, no infirmity is found in the order dated 31.7.2016 (Annexure P-1) qua the petitioner and whereby he has been transferred to Municipal Corporation, Gurgaon.

9. Petition, accordingly, is dismissed.