

(1989) 03 P&H CK 0093
In the Punjab And Haryana At Chandigarh
Case No : C.R. No. 235 of 1989

Dhanpal Singh

APPELLANT

Vs

Khadi and Village Industries Commission and Another

RESPONDENT

Date of Decision : 15-03-1989

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 39 Rule 1, Order 39 Rule 2

Citation : (1989) 03 P&H CK 0093

Hon'ble Judges : J.V. Gupta, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

J.V. Gupta, J.—This order will also dispose of Civil Revision No. 420 of 1989 as the question involved is common in both the cases and appeal was also disposed of by the other order by the Additional District Judge, Ambala.

2. Three suits were filed by Dhanpal Singh, Garish Kumar Arora and S.P. Sharma for seeking decree for permanent injunction on the plea that the plaintiffs are employed under the Khadi and Village Industries Commission with its Head Office at Bombay and State office at Ambala Cantt. There was unified cadre of ministerial staff working in the State office at Delhi, Ambala, Chandigarh and Shimla and it was controlled and administrated by the State Director, Ambala. The said commission decided to have separate cadre for the ministerial staff of the State offices of Delhi, Ambala, Shimla and Chandigarh respectively and it was decided to induct ministerial staff under the unified cadre in the respective State Cadre, after obtaining necessary options from the concerned employees. According to the plaintiffs, they were working in Ambala cadre and they also opted for Ambala Cadre. In spite of all this, the said commission ordered the transfer of the plaintiffs to Chandigarh cadre and some posts have been declared as vacant in Ambala Cadre. The plaintiffs thus challenged their orders of transfer dated 7.4.1988 in the suits and also claimed that they should not be transferred to Chandigarh. Along with the suits they also moved applications under Order 39

Rule 1, 2 CPC for temporary ad-interim injunction. The said applications were contested by the defendants. The trial court vide order dated 3.6.1988 ordered that the option of the plaintiffs would be scrutinized view of circular No. 1408 and after considering their seniority, orders of transfer if need arise would be passed. Till such orders are passed, the defendants are restrained from transferring the plaintiffs from Ambala Cantt. In appeal, the Learned Addl. District Judge, Ambala set aside the said order of the trial court on the ground that the said standing orders are administrative instructions and do not create any right in the plaintiffs.

3. Learned Counsel for the petitioner submitted that the view taken by the trial court was perfectly valid and the same has been set aside in appeal arbitrarily. According to the Learned Counsel, the trial court only directed to pass appropriate orders keeping in view the said standing order and therefore, the authorities were still competent to pass any order before transferring the petitioner. According to the Learned Counsel the said standing order was binding upon the authorities. He in support of his contention referred to *The Comptroller & Auditor General v. K.S. Jagannathan* AIR 1987 SC 573. On the other hand, the Learned Counsel for the defendants/respondents submitted that there was no error of jurisdiction as to be interfered within revision jurisdiction. No irreparable loss will be caused to the plaintiffs in case they join at their posting station. He also submitted that the Civil Court will not interfere on the basis of the administrative instructions even if there was any breach thereof. In support of his contention, he referred to *J.R. Raghupathy and Others Vs. State of A.P. and Others*, . He also argued that the operation of the transfer order should not have been stayed by the Civil Court in view of the judgments reported in *Babu v. State of Kerala* AIR 1988 H.A.P. 412 Kerala, *Jogendra Mohanty v. State of Orissa* and *Ors.* 1979 (1) SLR 892 and *Vasu v. High Court of Kerala* 1989 (1) KLT 16.

4. After hearing the Learned Counsel for the parties, I do not find any justification for interference in the impugned order. Out of the three plaintiffs, one has already joined at Chandigarh at his new posting station. As regards, S.P. Sharma, he has already accepted and realized the transfer allowance but has not joined such. Temporary orders of injunctions are issued keeping in view the well known principle of prima facie case, irreparable loss etc. In the present case no irreparable loss has been shown which could be said to be caused to the plaintiffs in case the injunction is not granted in their favour. They are entitled to the transfer allowances and in case they succeed ultimately they will be again transferred and will be entitled to the transfer allowances. In these circumstances there was absolutely no occasion for granting any ad-interim injunction in their favour particularly when the impugned orders are transfer orders which are ordinarily passed on administrative considerations. Consequently, both the petitions fail and are dismissed with costs.