
(2009) 11 P&H CK 0055
In the Punjab And Haryana At Chandigarh

H.C. Prem Singh and Others

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 27-11-2009

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2010) 157 PLR 213 : (2010) 1 SLR 126

Hon'ble Judges : Ajai Lamba, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Ajai Lamba, J.—This order shall dispose of six civil writ petitions namely CWP No. 13108 of 2009 titled H.C. Prem Singh and Ors. v. State of Punjab and Ors. CWP No. 13502 of 2009 titled H.C. Chanan Singh and Anr. v. State of Punjab and Ors. CWP No. 13340 of 2009 titled H.C. Avtar Singh and Ors. v. State of Punjab and Ors. CWP No. 13405 of 2009 titled Pawan Kumar and Ors. v. State of Punjab and Ors. CWP No. 13522 of 2009 titled Rachhpal Singh and Anr. v. State of Punjab and Ors. and CWP No. 13445 of 2009 titled H.C. Gurbax Singh and Ors. v. State of Punjab and Ors. as common questions of facts and law are involved.

2. For reference to facts, CWP No. 13108 of 2009 titled H.C. Prem Singh and Ors. v. State of Punjab and Ors. is being taken up.

3. This petition has been filed under Articles 226 and 227 of the Constitution of India praying for issuance of a writ in the nature of certiorari quashing order dated 13.08.2009 qua the petitioners, who are 23 in number, whereby they have been repatriated from Excise and Taxation Department, where they were deputed, to the parent department i.e. Punjab Police.

4. Order Annexure P-3 issued from the Office of Director General of Police, Chandigarh addressed to the Commissioner, Excise and Taxation Department reads as under:

Subject: Reg. Designation of 1st and 6th IR Bns. as Excise and Taxation Bns.

Please refer to the subject noted above.

It has been decided to designate 1st and 6th IR Bns. as Excise and Taxation Bns with immediate effect. As such, the officials posted in these Bns. only will be sent on deputation to Excise and Taxation department henceforth.

You are, therefore, requested to repatriate all the police officials (list attached) presently on deputation with your department with the direction to report to their parent units immediately without availing any joining time. Their substitutes from the above said IR Bns. will be provided to your office shortly.

5. The petitioners, by way of the present petition, claim equitable relief by way of arguing that they were sent to Excise and Taxation Department for two years, on deputation. Various arrangements, including house for family and school for children, were made. Just after six months, however, they are sought to be withdrawn and replaced with other police personnel. No reasons have been assigned for the same.

6. Reply has been filed wherein the following stand has been taken in paras No. 1 & 2 of the preliminary objections:

1. That about 609 police personnel were sent to Excise & Taxation Department on deputation from different units. It was observed that these personnel were not able to function effectively to the satisfaction of the borrowing department because they have been drawn from various units of the Punjab Police and have been posted on deputation for a long period of time. There is lack of effective command structures as well as they tend to develop vested interests. In order to make them more responsive, proactive and for better supervision, it was decided at the Government level to replace all existing police personnel on deputation with two singular units of Indian Reserve Battalions for better administrative control.

In furtherance to the above decision, the respondent No. 2 requested the Commissioner, Excise and Taxation, Department, Punjab vide letter No. 6972/E-II(3) dated 13.8.2009 (Annexure P-3) to repatriate all the Police personnel presently on deputation with his department with the directions to report to their parent units. Transfer of the petitioners from one place to other is not a punishment.

No legal right of the petitioners has been infringed. The petitioners have no cause of action for filing the present writ petition before this Hon"ble Court.

2. That the parent department can recall the officials on deputation at any time before the completion of deputation period on administrative ground.

Similarly the decision of the borrowing department to reduce the period of deputation is also an administrative decision on the needs of the service and cannot be questioned as long as such decision is taken bonafide in the

administrative interest. The petitioners have also stated in para No. 10 of the writ petition that under rule 10.28 of the Punjab Civil Service Rules, Vol.-1 the Government has inherent power to terminate the deputation arrangement earlier than the period specified in the order of terms and conditions of the deputation when exigencies so demand.

The decision of repatriation of all the Police personnel from the Excise & Taxation department was taken in public interest and for better administrative control.

7. Learned Counsel for the petitioners states that although reasons have been assigned in the written statement, however, no such reason has been conveyed to the petitioners.

8. I have considered the issue. 609 personnel were sent to Excise and Taxation Department from different units. Having observed the working of these persons in Excise and Taxation Department by the borrowing department, it has been concluded that these personnel were not able to function effectively. There is lack of effective command structures and they tend to develop vested interests. They are required to be made more responsive and proactive.

9. Under these circumstances, the existing police personnel on deputation have been substituted with two singular units of Indian Reserve Battalions designated as Excise and Taxation Bns. for better administrative control. Learned Counsel for the respondents has pointed out that the Battalions have been identified and persons from those Battalions would be deputed in place of the petitioners. It has further been pointed out that under Rule 1.5 of the Punjab Police Rules, all Police Officers are liable to be put on duty anywhere within the province.

10. Considering the fact that the petitioners have not been able to serve the borrowing department with the effectiveness required and the fact that for better administrative control, singular units of Indian Reserve Battalions are required to be deputed, I find no ground to interfere and judicially review the order passed by the respondents for better administrative functions. The legal authority and jurisdiction of the respondents deputing the police personnel and withdrawing them is not at issue.

11. In view of the above, the petition is dismissed.