
(2012) 08 P&H CK 0064
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 16128 of 2012

Jai Pal

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 22-08-2012

Acts Referred:

Citation : (2012) 08 P&H CK 0064

Hon'ble Judges : Augustine George Masih, J

Bench : Single Bench

Advocate : Mahavir Sandhu, for the Appellant;

Judgement

Augustine George Masih, J.—Petitioner has approached this Court assailing the order dated 17.8.2012 (Annexure P-5) vide which respondent No. 6-Vishnu Dutt stands transferred and posted to Ranjitpur Block, Territorial Range, Sadhaura. It is the contention of the counsel for the petitioner that the petitioner and respondent No. 6 were posted in Block-I and Block-2 of Sunder Bahadarpur. However, vide order dated 23.7.2012, the Conservator of Forests, North Circle, Haryana-respondent No. 3 joined Sunder Bahadarpur's 1st and 2nd Blocks and created Ranjitpur Forest Block. Thereafter, the Divisional Forest Officer, Yamuna Nagar, Division Yamuna Nagar-respondent No. 4 sought guidance from the Conservator of Forests in the light of the merger of the two blocks of Sunder Bahadarpur, to which a telephonic communication was received from the Superintendent of the Office of respondent No. 3 that Jai Pal-petitioner has been given duty/charge of Ranjitpur Block vide order dated 3.8.2012 (Annexure P-2). In pursuance thereto, the Range Forest Officer, Sadhaura vide order of even date i.e. 3.8.2012 (Annexure P-3) directed the petitioner to take charge of this Block.

2. Petitioner, in pursuance thereto, took over the charge of Ranjitpur Block on 6.8.2012. The report was submitted to the Forest Range Officer, Sadhaura on the same day (Annexure P-4). Thereafter, vide impugned order dated 17.8.2012 (Annexure P-5), respondent No. 6-Vishnu Dutt stands transferred to Ranjitpur Block, Territorial Range, Sadhaura against the post on which the petitioner

alleges he is working. The challenge is made to this order of transfer.

3. It is the contention of the counsel for the petitioner that the order of transfer dated 17.8.2012 is based on a misconception that the post on which the petitioner was working is vacant. When the petitioner was already holding that post in pursuance to the order dated 3.8.2012 (Annexure P-2), which was based upon a telephonic communication received from the Office of the Conservator of Forests, his contention is that the transfer order of respondent No. 6 is in violation of the transfer policy of the Government of Haryana dated 15.7.1998, according to which an employee, who is to retire within a period of one year, should not be transferred out from the post which is held by him. As the petitioner is to retire in 11 months' time, therefore, this transfer order being violative of the transfer policy cannot sustain. His further contention is that with the passing of the order dated 17.8.2012, petitioner is left without any posting and, therefore, the impugned order cannot sustain.

4. I have considered the submissions made by the counsel for the petitioner and with his assistance have gone through the records of the case.

5. It is not in dispute that the Competent Authority, who ordered transfer and posting is the Conservator of Forests. On creation of a new Block in the form of Ranjitpur by merger of Sunder Bahadarpur Blocks 1 and 2, where two people were working in the two different blocks, namely, the petitioner and respondent No. 6, the situation arose that one person had to make way for the other. Accordingly, a direction was sought by the Divisional Forest Officer, Yamuna Nagar on 3.8.2012, in pursuance to the order dated 23.7.2012 passed by the Conservator of Forests by creating the new Ranjitpur Block therein. The direction which has been issued is only with regard to the petitioner being given duty/charge of Ranjitpur Block neither the petitioner nor respondent No. 6 is posted in the said block. In pursuance to this order dated 3.8.2012, petitioner has taken over charge on 6.8.2012. The arrangement appears to be primarily in the form of a stop-gap arrangement till the Competent Authority deputed a person on the said post. In pursuance thereto and in the light of the fact that the Competent Authority i.e. Principal Chief Conservator of Forests, Haryana, exercising its powers passed order dated 17.8.2012 (Annexure P-5) transferring respondent No. 6-Vishnu Dutt from Forester Territorial Range, Sadhaura to Ranjitpur Block, Territorial Range, Sadhaura against a vacant post. Nothing can be inferred from the said order which would suggest it to be illegal as by the merger of the two blocks, the post which had come into existence, no official has been posted on the said post when this order was passed. The petitioner has proceeded on a misconceived assumption that he had been posted against the said post of Ranjitpur Block, however, as a matter of fact and as per the orders available on record, he was only given the duty/charge of the said block. The order, therefore, is not in violation of any provision which would call for interference by this Court on this ground.

6. The next contention which has been raised by the counsel for the petitioner is

that the transfer order of the petitioner is violative of the transfer policy of the State (Annexure P-6) as the petitioner is to retire in 11 months" time. Connected therewith another argument that with the passing of the order dated 17.8.2012 (Annexure P-5), the petitioner is left without any posting.

7. The first contention with regard to the transfer order being in violation of the transfer policy is without any basis as a matter of fact, no transfer of the petitioner as yet has been ordered. In any case, the posting orders of the petitioner would be issued by the Competent Authority as he is bound to be given some posting. Petitioner should, at this stage, approach the respondents for grant of the said posting order and may also project his claim to be posted to Ranjitpur Block in the light of transfer policy of the Government of Haryana as the petitioner is retiring within one year, which the Court is sanguine will be taken care of at an early date by the respondents. The writ petition stands decided accordingly.