
(2016) 01 P&H CK 0216

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 27346 of 2015 (O&M)

Kawaljit Singh

APPELLANT

Vs

Union of India and others

RESPONDENT

Date of Decision : 22-01-2016

Acts Referred:

Constitution of India, 1950 — Article 14, 226

Citation : (2016) 2 SCT 355 : (2016) 6 SLR 36

Hon'ble Judges : Sabina, J.

Bench : Single Bench

Advocate : Rajeev Anand, Advocate, for the Appellant; Chetan Mittal, Senior Advocate with Alok Jain, Advocates, for the Respondent

Final Decision : Dismissed

Judgement

Sabina, J. - Petitioner has filed this petition under Article 226 of the Constitution of India seeking a writ in the nature of certiorari for quashing of order dated 10.12.2015 (Annexure P-5).

2. Case of the petitioner, in brief, is that he was Commissioned Officer serving in the Indian Army and was posted at Hisar. Petitioner is due to retire in July 2017. Respondents have passed the order dated 10.12.2015 transferring the petitioner from Hisar to Bhopal without taking in consideration the peculiar and domestic circumstances of the petitioner. Mother of the petitioner was 77 years old and was bed-ridden and brother of the petitioner was 57 years old but was a special child who was totally dependent on the petitioner. Father of the petitioner had died in March 2008. Since the petitioner had only 18 months of tenure left before his superannuation, he could be accommodated at the present place of posting on compassionate grounds.

3. Respondents, in their written statement, averred that the petitioner had no legal or vested right to continue at the present place of posting. Petitioner was posted at Hisar on 3.6.2013 and had completed more than two years and seven

months. Petitioner was due to retire on 31.7.2017 on completion of age of 54 years. Petitioner had served at Peace Stations from 15.8.2005 onwards. Petitioner had submitted his representation for extension of his present tenure at Hisar by one year on the following grounds:-

1. To look after 77 years old bedridden mother, suffering from multiple ailments including Parkinson's disease and undergoing medical treatment and rehabilitation at Hissar.

2. To look after 57 years old brother, a special child who is totally dependent on the officer post demise of father in March 2008.

3. For his own treatment of Neutropenia Hypoplastic Anaemia at Research and Referral Hospital, Delhi.

4. For his son education, studying in class XII.

4. The representation of the petitioner was considered and the competent authority rejected the request of the petitioner for extension of his tenure at Hisar by one year. However, petitioner was allowed two months extension to enable him to assist his son and stabilise the condition of his mother. Petitioner was informed qua the decision of the advisory board vide letter dated 26.5.2015. Petitioner did not challenge the said decision. Thereafter the posting order was communicated to the petitioner vide Annexure P-5 dated 10.12.2015.

5. Learned counsel for the petitioner has submitted that the petitioner had to take care of his ailing mother and brother. Hence, the petitioner who was at the fag end of his career should be allowed to continue at the present place of posting.

6. Learned senior counsel for the respondents, on the other hand, has submitted that the request made by the petitioner for extension of his tenure at Hisar was declined in May 2015. Thereafter the posting orders have been issued in December 2015. In case the request submitted by the petitioner is allowed, it would affect the whole chain of postings which involved about 18 officials.

7. In the present case, the petitioner has challenged the order Annexure P-5 whereby he has been posted from Hisar to Bhopal. During the course of arguments, it has transpired that petitioner has been working at Peace Stations. By virtue of the order Annexure P-5, petitioner has been posted again at a Peace station. Since the petitioner had already remained posted at Hisar with effect from 3.6.2013, the respondents have issued the posting order Annexure P-5. Vide Annexure R-1/2, the request submitted by the petitioner that he may be allowed to continue at Hisar for one year, was declined on 26.5.2015. Petitioner did not challenge the said order immediately. Since the order Annexure R-1/2 was not challenged by the petitioner, the posting order Annexure P-5 has been issued. Petitioner has been posted at Bhopal which is a Peace station where all requisite medical facilities are available. Petitioner is serving in Indian Army and cannot insist for a place of posting of his choice or a particular place. Petitioner

had joined the job knowing fully well that he can be transferred anywhere in the country and cannot continue at one place. It is for the respondents to see as to where the officials are required to be posted.

8. In the facts and circumstances of the present case, no ground for interference by this Court while exercising jurisdiction under Article 226 of the Constitution of India, is made out.

9. Dismissed.