
(2020) 09 P&H CK 0013

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 13602 Of 2020

Ram Chander

APPELLANT

Vs

State Of Haryana And Others

RESPONDENT

Date of Decision : 04-09-2020

Acts Referred:

Citation : (2020) 09 P&H CK 0013

Hon'ble Judges : Avneesh Jhingan, J

Bench : Single Bench

Advocate : S.S. Mor, Sumit Gupta

Final Decision : Disposed Of

Judgement

Avneesh Jhingan, J

The matter is taken up for hearing through video conference due to COVID-19 situation.

The petition is filed seeking quashing of transfer order/list dated 17th August, 2020 and all subsequent proceedings arising therefrom.

The petitioner had joined the respondent-department on 21st February, 2012 on the post of driver and was presently posted at Bhiwani Depot . Initially he was posted in Faridabad, on 14th August, 2016, he was transferred to Bhiwani. As per the transfer list dated 17th August, 2020, he is transferred from Bhiwani Depot to Yamunanagar Depot and his name appears in the list at serial No.18.

The grievance raised in the present petition is that transfer is in violation of transfer policy. Reliance is on Sub Clause (ii) (a) of Clause 4 of the State Transport Haryana Employees Transfer Policy 2018 (for short 'transfer policy'), to state that the transfer orders has to be issued in the month of April every year. As per Clause 5 of the transfer policy, in case there is a stay of 5 years in a particular depot, an employee will be transferred preferably according to his/her choice. It is further pleaded that two children of the petitioner are studying in

Class VI and IX respectively and his widow mother is staying with him. Mr. Sumit Gupta, Addl. AG, Haryana appearing on advance notice has produced amendment dated 07th August, 2020 to the transfer policy, same is taken on record as mark 'A'. It is stated as per the amended policy that the transfer process is to be completed by 31st August, 2020 except in cases where the dates are specified in annexures.

It would be pertinent to note that Clause 8, sub-clause (xiv), provides remedy to the petitioner to raise grievance against transfer process. The clause is reproduced as under:-

8. Procedure to be adopted.

"(xiv) Within 15 days of issuance of orders, the employees aggrieved with the transfer process can represent to the department after joining at new place of posting, on a grievance redressal forum to be provided by the department in this behalf. Their representation will be considered in accordance with the policy and appropriate decision will be conveyed to them as deemed fit."

As per the clause, an employee after joining at new place of posting can raise the grievance against the transfer process. The representation so made would be decided in accordance with the policy and the decision would be conveyed.

Petitioner has not availed remedy available under clause 8 sub-clause (xiv).

The Division Bench of this Court in LPA No. 247 of 2020, decided on 24th February, 2020 titled as Nisha vs. State of Haryana, upheld the order of the learned Single Judge of this Court whereby liberty was granted to the petitioner to pursue the remedy as provided in policy.

The grievance is that three days time was given in transfer orders, hence, the representation could not be made. The submission is not well founded, the petitioner approached this Court but could not avail the remedy.

In view of above, the present petition is disposed of with liberty to the petitioner to comply with condition of sub-clause (xiv) of clause 8 of the 'transfer policy' and to avail the remedy. The issues raised in the present writ petition are not being deliberated upon, as it would have an impact on remedy to be availed by the petitioner.

At this stage, learned counsel for the petitioner submits that representation would be made and the same be directed to be decided in time bound manner.

Learned State counsel submits that in case such representation is made, the same would be marked to the appropriate forum and would be decided expeditiously.