
(1998) 01 P&H CK 0018
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 8475 of 1997

Smt. Santosh Sharma

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 27-01-1998

Acts Referred:

Citation : (1998) 120 PLR 446

Hon'ble Judges : H.S. Bedi, J

Bench : Single Bench

Advocate : R.K Malik, for the Appellant; Ajay Jain, for the Respondent

Final Decision : Allowed

Judgement

H.S. Bedi, J.—The petitioner was appointed as an Investigator in the office of the District Social Welfare Officer, Hisar, whereas her husband-Padam Kumar was then posted as a lecturer in Military Science in Government College, Hisar. The petitioner's case is that her husband had opposed respondent No. 4, Shri Kanwal Singh, Development and Panchayat Minister, Haryana, in the last assembly elections in Haryana by supporting one Chatter Pal, who is stated to be a friend of her husband. Respondent No. 4, accordingly, was unhappy with the petitioner and her family and manoeuvred the transfer of Padam Kumar, husband of the petitioner from Hisar to Meham. This transfer was, however, cancelled and the petitioner's husband was reposted at Hisar on a representation made to the Chief Minister, Respondent No. 4 thereafter arranged for the transfer of the petitioner from Hisar to Chandigarh vide order Annexure P-3 dated 12.5.1997. The petitioner's mother represented to the Director as well as to the Chief Minister against this transfer and though a sympathetic view was in the offing yet respondent No. 4 once again intervened and sent a note dated 3.6.1997 to the Department that her transfer should not be cancelled as she had been transferred on account of various complaints that had been made against her. It is also the case of the petitioner that as she and her husband had got separated on account of these two transfers, this was contrary to the Government

instructions with regard to the adjustment of couple cases.

2. On notice of motion, various replies have been put in Court. In the reply filed by respondents No. 1 and 2, it has been pleaded that the petitioner had put in almost 4-1/2 years of service at Hisar and as such her transfer was justified. It has further been pleaded that the transfer policy was merely a guideline and could not confer any inflexible right on the petitioner. Respondent No. 4 has also put in his reply and it has been averred by him that the petitioner's transfer had been effected on account of the fact that she and her husband had been taking an active part in politics and there were also a number of complaints against her. It had been denied that the transfer of the petitioner had been manoeuvred by him though it has been admitted that a note dated 3.6.1997 had been sent by him to the Local Government Minister asking him not to cancel the transfer of the petitioner from Hisar to Chandigarh. The petitioner has also filed a replication to the written statement filed by respondent No. 4 and reference has been made to another note dated 16.6.1997, in which it had been recommended that Padma Sharma, the petitioner's husband, should be transferred to a place farthest from Hisar. A reply has also been put to the replication by respondent No. 4 and it has been admitted that the note dated 16.6.1997 had infact been sent to the Local Government Minister and a complaint annexure R-I/T has also been put with this pleading to show that the transfer was justified.

3. Mr. R.K. Malik, the learned counsel for the petitioner has while admitting that the Court's interference in the matters relating to transfers should be minimal has urged that the present case was one of malafides which clearly stood proved from the documents placed on record. In this connection, he has referred to the notes dated 3.6.1997 and 16.6.1997, which have been produced with the replication. He has also pointed out that but for solitary complaint (which was also of doubtful authenticity), annexure R-I/T, nothing else had been placed on record and as a matter of fact certificates of appreciation annexures P-6 and P-7 clearly showed that the petitioner's work was of a high standard. As against this, the learned counsel for the State has pointed out that in addition to annexure R-I/T, there were a series of complaints which had been addressed to respondent No. 4 pertaining to the mis-conduct of petitioner. These complaints have also been produced on record today in Court.

4. After hearing the learned counsel for the parties. I am of the opinion that this petition deserves to succeed. As would be evident from what has been narrated above, interference would be called for in the present case in the eventuality that a case of mala fides was spelt out against respondent No. 4. It has been admitted by him that Padam Kumar, the petitioner's husband and Chatter Pal, against whom he had fought an election were friends and that there had been an unpleasant scene at the time of counting of votes in May, 1996, in which Chatter Pal had lost and respondent No. 4 been declared elected. In this regard the two notes, referred to above, become significant and they are reproduced below :-

"Smt. Santosh Sharma, investigator, office of the District Welfare Officer, Hisar,

has been transferred on complaint basis to Head Office, Chandigarh. The husband and other family members take part in politics of this official. In which role of Smt. Sharma, is of active nature. General Public of District Hisar also has complaint regarding the behaviour of Smt. Santosh Sharma.

In the above circumstances, L.G.M. is requested that transfer of Smt. Sharma may not cancelled and she may be kept posted at Head Office, Chandigarh.

3.6.1997.

Sd/- Kanwal Singh,

Development Minister".

"I would request Hon"ble Education Minister that following transfers of College lecturers may please be made on administrative grounds.

Name	&	Present Station	No.	Place	of Posting	recommended.
						Sr.
						1. Sh.
Sant Lal, Lecturer in Military Science, Government Out of Hisar farthest place.						
College, Hisar. 2. Sh. K.C. Sharma, Lecturer in English, Government College, -						
do- Hisar. 3. Sh. Padam Sharma, Lecturer, Military Science -do- Government						
College,		Hisar	Sd/-16.6.1997	Kanwal	Singh,	D.M.
						E.M.

Development and Panchayat Minister, Haryana, No. 768-N, QM-97,

Dated 17.6.1997."

5. It is evident that respondent No. 4, who was Minister of Development and Panchayat had absolutely no authority to interfere in transfers and postings pertaining to a department, which was not under his charge. The remark that the petitioners husband Padam Kumar be posted at the farthest place from Hisar clearly spells out the sense of bitterness which respondent No. 4 bore towards the petitioner"s husband. Although in the note dated 3.6.1997, it does find mention that i the petitioner and her family members take part in active politics and in addition a complaint annexure R-1/T has been appended to the reply filed by respondent No. 4 to show that the petitioner was not taking her duties seriously yet in the light of certificates annexures P-6 and P-7 and in the background noted above, these allegations cannot be accepted at their face value, the more so as in the reply filed by the State no such plea has been taken. The complaints produced by Mr. Jain today in Court are of doubtful origin as they have all been addressed to respondent No. 4 and there is no diary number recording their receipt and also lack the full addresses of the complainants. The fact that these complaints do not find mention in any of the replies that have been put on record also create a doubt about their authenticity. I am, therefore, of the opinion that the petitioner and her husband had to suffer on account of

mala fide of respondent No. 4 and are, thus, entitled to relief through this Court. This Civil Writ Petition, is, accordingly, allowed and annexures P-3 is quashed qua the petitioner. It is further directed that the petitioner will not be transferred till the next general transfers. The petitioner is entitled to a costs of Rs. 5,000/, to be recovered from respondent No. 4 personally.