

CWP No. 9420 of 2006

Present: Mr.KG Chaudhary, Advocate  
for the petitioner.

Mr.BS Chahal, AAG Punjab for respondents 1 to 3.

Mrs.Daya Chaudhary, Addl. Solicitor General of India  
for respondents 4 and 5.

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Written statement on behalf of respondents 4 and 5 has been filed. A Civil Miscellaneous application bearing No.17107 of 2006 has also been filed at the hands of respondents No.4 and 5 for vacation of the interim order passed by this Court on 7.9.2006, whereby the operation of the impugned transfer order dated 8.6.2006 (Annexure P3) was stayed.

The sequence of facts emerging from our orders reveals that this Court on 6.7.2006, while issuing notice of motion for 7.9.2006, issued notice re. stay as well.

On 7.9.2006 since no written statement had been filed at the hands of the respondents, and as such, since the allegations contained in the writ petition had not been denied, we passed an interim order on 7.9.2006 staying the operation of the impugned transfer order dated 8.6.2006. In the interregnum, on the basis of the written statement filed on behalf of respondents 4 and 5, it emerges that the petitioner reported for duty to the Senior Superintendent of Police, Ferozepur on 24.7.2006 i.e. well before the date when the interim order was passed on 7.9.2006. Despite the fact that the petitioner had assumed his duties at Ferozepur on 24.7.2006, the aforesaid factual position was not disclosed to this Court. Possibly, if the aforesaid fact had been brought to the notice of this Court, the aforesaid interim order may not have been passed on 7.9.2006.

CWP 9420 of 2006

-2-

During the course of hearing, learned counsel for respondents 4

and 5, on instructions from Mr.Ashok Mahajan, Assistant Director, Intelligence Bureau, posted at Chandigarh, states that the petitioner was reverted from the Intelligence Bureau to the Parent Department on account of the fact that he had started to draw salary which exceeded the maximum pay of the rank held by him, as he was not only entitled to his basic pay but was also entitled to deputation allowance. The reversion of the petitioner to his Parent Department is, therefore, not of a serious issue, as of now the main issue is, whether the petitioner should be allowed to continue as a member of the CID cadre wherein he was posted as far back as 31.12.1979 and wherein he has earned all his promotions till date.

In view of the factual position noticed in the foregoing two paragraphs, we are satisfied that the interim order passed on 7.9.2006 deserves to be vacated. Ordered accordingly.

For considering the aforesaid issue, it would be imperative to have a response at the hands of respondents 1 to 3. Learned counsel for respondents 1 to 3 prays for an adjournment so as to enable him to file written statement. Prayer is allowed. Written statement, if any, be filed within three weeks from today with a copy in advance to the counsel opposite.

List again for further consideration on 23.1.2007.

( J. S. KHEHAR )  
JUDGE

( S. D. ANAND )  
JUDGE

December 18, 2006  
SRM