

Court No. - 36

Case :- WRIT - A No. - 12165 of 2023

Petitioner :- Priya

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- O.P.S. Rathore

Counsel for Respondent :- C.S.C., Archana Singh

Hon'ble Manjive Shukla, J.

1. Heard learned counsel appearing for the petitioner, learned Standing Counsel appearing for the Respondents No.1 & 2 and Smt. Archana Singh, learned counsel appearing for the Respondents No. 3 & 4.

2. Petitioner has filed this writ petition *inter alia* praying therein for the following reliefs:-

"(i) Issue a writ, order or direction of a suitable nature commanding the respondent to forthwith grant posting to the petitioner as an Assistant Teacher in a Junior Basic School run by Board of Basic Education in District Bijnor within a period be specified by this Hon'ble Court.

(ii) Issue a writ, order or direction of a suitable nature commanding the respondent to permit the petitioner to function as an Assistant Teacher in a Junior Basic School in District Bijnor and to pay the petitioner her regular monthly salary on the said post regularly every month."

3. Facts of the case, in brief, are that petitioner is working on the post of Assistant Teacher in a Junior Basic School at District Rampur. State Government initiated exercise of inter-district transfers by issuing Government dated 2.6.2023, wherein it was provided that applications of teachers for inter-district transfers shall be considered on the basis of weightage marks obtained by them. Petitioner pursuant to the Government order dated 2.6.2023 submitted her online application and in the said application, she claimed 10 weightage marks for the posting of her spouse as Village Development Officer in District Bijnor.

4. The State Government in the Government order dated 2.6.2023 has very categorically provided that if spouse of a teacher is working under the State Government, then 10 weightage marks shall be given to the said teacher for evaluating her case for inter-district transfer. Petitioner along with her application annexed a certificate issued by the Senior Administrative Officer, District Development Office, Bijnor, whereby it has been certified that husband of the petitioner, Mr. Ankit Kumar is working as Village Development Officer in

Block Alhaipur Dhampur, District Bijnor, which is a post under the Government of U.P.

5. Learned counsel appearing for the petitioner has submitted that petitioner has not been granted 10 weightage marks in respect of posting of her spouse on the ground that the certificate of employment of her spouse annexed with the application form has not been issued by the competent authority. It has further been submitted that petitioner in the supplementary affidavit filed before this court has annexed another certificate issued on 18.8.2023, whereby it has been certified that since District Development Officer, Bijnor was not available, therefore, in his absence the Senior Administrative Officer, District Development Office, Bijnor is the competent authority to issue a certificate of employment and accordingly, he has certified that petitioner's husband is working on the post of Village Development Officer and is a government servant.

6. Learned counsel appearing for the petitioner has argued that once there was proper material before the respondents to show that petitioner's husband is a government servant, there was no occasion for them not to grant 10 weightage marks while evaluating the application of the petitioner for her inter-district transfer.

7. A counter affidavit has been filed on behalf of the Respondent No.3, wherein it has been categorically stated that since petitioner has not submitted certificate of employment of her spouse issued by the appointing authority, therefore she has not been given 10 weightage marks as in the circular dated 16.6.2023 there is a condition that certificate of employment must have been issued by the appointing authority.

8. Smt. Archana Singh, learned counsel appearing for the Respondents No. 3 and 4 has vehemently argued that since the certificate of employment of petitioner's spouse has not been found as per the provisions made in circular dated 16.6.2023, therefore she has not been awarded 10 weightage marks and accordingly, she has not been transferred from district Rampur to district Bijnor.

9. I have considered the arguments advanced by the learned counsels appearing for the parties and I find that State Government initiated exercise of inter-district transfers by issuing a Government order dated 2.6.2023, wherein only this much was provided that if spouse of a teacher is a government servant of the State of U.P., he/she will be awarded 10 weightage marks for evaluating his/her application for inter-

district transfer. Petitioner pursuant to the aforesaid Government order dated 2.6.2023 submitted her online application on 12.6.2023 and along with her application, she has filed certificate of employment of her spouse issued by the Senior Administrative Officer, District Development Office, Bijnor. Once there was no condition in the Government order dated 2.6.2023 that petitioner has to submit certificate of employment of her spouse issued by the appointing authority, this court finds that there was nothing wrong in the application of the petitioner as along with application of the petitioner, certificate of employment issued by the responsible officer of the department was annexed.

10. This court finds that after petitioner submitted her application for inter-district transfer on 12.6.2023, the Secretary, U.P. Basic Education Board, Prayagraj has issued a circular on 16.6.2023, whereby for the first time this condition was imposed that certificate of spouse posting must have been issued by the appointing authority. Since the aforesaid condition has been put in motion after petitioner submitted her online application for inter-district transfer, therefore this court is of the view that the said condition cannot be applied while evaluating the petitioner's case for her inter-district transfer. More so, petitioner subsequently while filing the supplementary affidavit before this court has annexed a certificate issued on 18.8.2023, wherein it has been categorically provided that in absence of the District Development Officer, the Senior Administrative Officer, District Development Office, Bijnor is the competent authority to issue the employment certificate.

11. In view of the aforesaid reasons, this writ petition is finally disposed of with direction to Respondent No.3 to consider the petitioner's application for inter-district transfer from district Rampur to district Bijnor by passing a speaking and reasoned order within a period of six weeks from the date of presentation of certified copy of this order. It is further provided that if Respondent No.3 ultimately passes the order of transfer of petitioner, then posting to the petitioner shall be given at the end of the academic session.

Order Date :- 8.12.2023

Salim