

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No.24703 of 2014 (O&M)
Date of decision: 12.2.2015

Jyoti Rani

..... Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Jagjeet Beniwal, Advocate for
Mr. Manoj Chahal, Advocate for the petitioner.
Mr. Kuldeep Tiwari, Addl. Advocate General, Haryana.
Mr. Sanjay Vashisth, Advocate for respondent No.5.

RAJESH BINDAL, J

The petitioner has approached this Court impugning the order dated 24.11.2014 (Annexure P-2) issued by the Director, Elementary Education, Haryana, whereby, the transfer order of the petitioner from Government Girls Primary School, Tosham, Bhiwani to Government Primary School, Paluwas, Bhiwani, dated 1.8.2014 has been cancelled.

Learned counsel for the petitioner submitted that vide order dated 1.8.2014, the petitioner was transferred to Government Primary School, Paluwas vice respondent No.5-Hemlata Sharma. The petitioner joined his new place of posting on 4.8.2014, however, she was surprised to get the order dated 24.11.2014 cancelling her transfer. However, one of the condition mentioned in the order of cancellation is that the same shall be effective “if not joined”, hence, as the petitioner had already joined at her new place of posting at Government Primary School, Paluwas on 4.8.2014, the order was not effective qua the petitioner, but still the petitioner was relieved from there and respondent No.5 was permitted to join.

Despite repeated opportunities, the State has not filed reply.

Learned counsel for respondent No.5 submitted that immediately after the order of transfer was issued on 1.8.2014, on account of medical

condition of respondent No.5 and her husband, who have been undergoing treatment at All India Institute of Medical Science, New Delhi, representation was made for cancellation of order dated 1.8.2014. The same was recommended by the District Elementary Education Officer, Bhiwani to the Directorate Elementary Education, Haryana on 6.8.2014 for cancellation. The recommendation for cancellation of the transfer of respondent No.5 was made for taking a sympathetic view. As nothing was done, respondent No.5 filed CWP No.17750 of 2014, which was disposed of on 29.8.2014 with an observation that the authorities to take a final decision on the recommendation made by the District Elementary Education Officer vide memo dated 6.8.2014. It was thereafter, that the transfer of respondent No.5 was cancelled. As respondent No.5 had not joined at the transferred place, the order of cancellation has rightly been implemented.

Heard learned counsel for the parties and perused the paper book.

The fact that the petitioner was transferred from Government Girls Primary School, Tosham, Bhiwani to Government Primary School, Paluwas, vice respondent No.5-Hemlata Sharma vide order dated 1.8.2014 is not in dispute. The petitioner joined at the new place of posting on 4.8.2014. Request for cancellation of transfer was made by respondent No.5 vide letter dated 6.8.2014. As no decision was taken thereon, respondent No.5 approached this court by filing CWP No.17750 of 2014, which was disposed of without expressing any opinion on merit with an observation that the authorities to take a final decision on the recommendation made by the District Elementary Officer, Bhiwani. It was thereafter, that vide impugned order dated 24.11.2014, transfer of the petitioner vice respondent No.5-Hemlata Sharma, was cancelled. In the order of cancellation, it is clearly mentioned that "order may be cancelled, if not joined". As the petitioner had already joined at the new place of posting on 4.8.2014, earlier order of transfer dated 1.8.2014 had already been implemented. Merely because respondent No.5 had not joined at the new place of posting in terms of the transfer order dated 1.8.2014, it cannot be opined to mean that the cancellation order should be implemented as respondent No.5 did not join at new place of posting though relieved. In fact, despite transfer order dated 1.8.2014, for a period of more than three months, respondent No.5 did not

In view of my aforesaid discussions, the order dated 24.11.2014 cancelling the earlier order of transfer shall not be effective qua the petitioner, as the petitioner had already joined at the new place of posting, in view of the earlier transfer order dated 1.8.2014.

The petition stands disposed of.

(RAJESH BINDAL)
JUDGE

12.2.2015

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