IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-5137-2014
Date of Decision: 02.07.2015

Manju Chaudhary

... Petitioner

Versus

State of Haryana & others

... Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL.

1. Whether reporters of local newspapers may be allowed to see judgment ?
2. To be referred to reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. Jagbir Malik, Advocate,
for the petitioner.

Mr. Keshav Gupta, AAG, Haryana.

Mr. Amit Sharma, Advocate
for the respondent No.7.

AMIT RAWAL, J. (ORAL)

Challenge in the present writ petition is to the order dated 06.03.2014 (Annexure P-20) passed by respondent No.2, whereby legal notice dated 02.12.2013 (Annexure P-16) has been rejected.

Mr. Jagbir Malik, learned counsel appearing on behalf of the petitioner submits that the husband of the petitioner is posted in Delhi and the petitioner was appointed as JBT Teacher on 09.07.2004 and was allocated District Faridabad. The petitioner joined on 02.08.2004 with respondent No.5 i.e. Government Primary School, Asaoti, District Palwal. However, in the year 2008 i.e. August 2008 District Faridabad was bifurcated to District Faridabad and Palwal. The petitioner stated to have made a representation dated

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30.12.2010 (Annexure P-6) seeking transfer in District Faridabad. Thereafter, number of representations were made and ultimately legal notice dated 02.12.2013 (Annexure P-16) was served which was directed to be decided by this Court vide order dated 10.01.2014 in CWP No.195 of 2014. The grievance of the petitioner is that at the time of bifurcation of the District, consent should have been taken and since no consent has been taken as seniority list of both the Districts vis-a-vis JBT Teacher is joint, therefore, the petitioner was under the impression that as and when separate seniority list of both the district is made, consent would be taken.

Mr. Jagbir Malik, learned counsel for the petitioner submits that the impugned order is not only fallacious but suffers from illegality, much less, perversity for the reasons that the consent of the petitioner has not been taken and in support of the submissions has relied upon the judgment of Hon'ble Supreme Court rendered in *Jawaharlal Nehru University Vs. Dr. K.S. Jawatkar and others AIR 1989 S.C. 1577*.

Mr. Keshav Gupta, learned counsel appearing on behalf of State submits that order dated 06.03.2014 (Annexure P-20) has been passed keeping in view the Inter-District Transfer Policy Guidelines. As per Clause 10, all such female JBT/C&V Teachers, who have sought transfer in District, their husband should be working in the State Cadre posts of State/Centre Government/Local Bodies and Corporate Bodies. Delhi Jal Board has been impleaded as respondent No.7. Affidavit of Mr. S.K. Sharma, Assistant Commissioner(T), Delhi has been filed to contend that since petitioner is not employee of Delhi Jal Board therefore no relief has been sought against them.

Mr. Keshav Gupta, learned counsel for the State further submits that there is no averments/pleadings with regard to the fact that whether Delhi Jal Board is instrumentality of the State/Centre or not.

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I have heard learned counsel for the parties and appraised the paper book.

The Clause-10 of the policy extracted in the impugned order read thus as under:-

> *"All such Female JBT/C&V teachers who seek their transfer in the district where their husbands are working in State Cadre posts of State/Centre Govt./Local Bodies and body corporate."*

Affidavit of S.K. Sharma, designated as Assistant Commissioner (T), Delhi Jal Board, Delhi read thus as under:-

> *"I, S.K. Sharma, Assistant Commissioner (T), Delhi Jal Board, Delhi Sarkar, Varunalaya Phase-II, Karol Bagh, New Delhi – 05, do hereby solemnly affirm and declare as under:-"*

On going through the affidavit of S.K. Sharma, Assistant Commissioner, it is irresistably concluded that Delhi Jal Board is instrumentality of the State/Centre Government described as Delhi Sarkar and, therefore, the policy of the State clearly envisages that JBT Teachers is able to seek transfer in the District where their husband are working in State Cadre posts of State/Centre Government/Local Bodies and Corporate Bodies.

Admittedly, the husband of the petitioner is working as Junior Engineer in Delhi Jal Board which is instrumentality of the Centre, therefore the impugned order suffers from non-application of mind, much less, fallacious. Respondents-authorities have not applied his mind keeping in view the specific averments contained in the legal notice. It has been mentioned therein that husband of the petitioner is posted near Delhi Border. Therefore the petitioner had only sought transfer to a school in Faridabad which is close to Delhi Border. The petitioner had categorically stated in the affidavit that there are old ailing father-in-law and mother-in-law and their children and in case she is transferred to Faridabad she will be able to look after them. The

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petitioner has also categorically stated that she is not claiming any seniority for the period she remain posted in District Palwal.

There is categoric pleadings in paragraph No.24 of the writ petition that Inter-District Transfer Policy of the Government permits the transfer because the husband of the petitioner working in Delhi Jal Board being couple case, the petitioner is entitled for adjustment near Delhi i.e. Faridabad.

In view of what has been observed above, the impugned order dated 06.03.2014 (Annexure P-20) is hereby quashed.

The writ petition is allowed.

The respondents-authorities are directed to reconsider the case of the petitioner for posting her in District Faridabad keeping in view Clause 10 of the policy extracted above. The petitioner shall be at liberty to make the supplementary representation over and above what has been stated in the legal notice.

It is expected that in case supplementary representation is submitted, the respondents-authorities shall decide the same as expeditiously as possible within a period of three months from the date of receipt of certified copy of the order.

(AMIT RAWAL)
JUDGE

July 02, 2015
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