

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP No. 18533 of 2016 (O&M)

Date of Decision: 07.09.2016.

Manjit Singh & others

--Petitioners

Versus

State of Haryana and others

--Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. K.L. Dhingra, Advocate for the petitioners.

TEJINDER SINGH DHINDSA.J

The petitioners, who are five in number are serving as Lecturers/P.G.Ts under the Haryana State Education Department. It is pleaded that they are also discharging the duties of A.N.O.s (Associate N.C.C Officer). Such duty and responsibility is being discharged on the basis that the petitioners have been duly trained as N.C.C Officers by the Ministry of Defence.

The present petition has been filed impugning the orders appended at Annexures P-10 to P-14 carrying even date i.e. 6.8.2016 in terms of which the petitioners have been transferred out from their present place of posting/school.

The precise grievance set forth in the petition is that the schools where the petitioners have been transferred now by virtue of the impugned orders at Annexures P-10 to P-14 do not have N.C.C Units and neither are the petitioners upon transfer being sought to be replaced by N.C.C Officers.

During the course of arguments learned counsel has referred to copy of letter dated 20/21.3.1991 issued by the Commissioner and Secretary, Govt. of Haryana at Annexure P-2 which contains a decision that

N.C.C Officers should be transferred only in those institutions where N.C.C Units exist so as to ensure that N.C.C activities are not disrupted. Reliance has also been placed upon a Teachers' Transfer Policy dated 29.6.2016 and placed on record and appended as Annexure P-9 and in particular to clause 8 (xv) and which reads as under:-

“(xv) To ensure uninterrupted NCC program in the schools having NCC units, Associate NCC Officers (ANO) will be replaced by the teachers working as Associate NCC Officers only.”

It is *inter alia* contended that the impugned orders of transfer cannot sustain as they are violative of the decisions of the State Govt. contained in the letter at Annexure P-2 as also the Teachers' Transfer Policy dated 29.6.2016 (Annexure P-9).

Counsel for the petitioner has been heard at length and the pleadings on record have been perused.

It is by now well settled that transfer is an incidence of service. Terms and conditions contained in a Transfer Policy do not vest an enforceable right in an employee. Be that as it may, the State Govt. would certainly be obligated to follow its own decisions as also the Transfer Policy dated 29.6.2016 (Annexure P-9) and deviation therefrom would be permissible only on some cogent and justifiable basis.

In the considered view of this Court these are matters which require to be agitated before the Employer/concerned department in the first instance.

In the light of the facts pleaded and submissions made by counsel, I deem it appropriate to dispose of the present petition in terms of granting liberty to the petitioners to approach the competent authority i.e.

the Additional Chief Secretary, School Education Department, State of Haryana/respondent no.2 directly as regards the grievance that the petitioners have portrayed against their transfer. In the eventuality of any such representation being preferred, respondent no.2 would be obligated to take a final view on the same within a period of seven days from the date of submission of the representation.

As an interim measure status quo as regards place of posting of the petitioners as it exists today, shall be maintained for a period of 10 days from today.

Petition disposed of.

A copy of this order be furnished to learned counsel for the petitioners under the signatures of Bench Secretary.

(TEJINDER SINGH DHINDSA)
JUDGE

07.09.2016
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Whether speaking/reasoned: Yes

Whether Reportable: No