

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

**CWP No. 19215 of 2016 (O&M)
Date of Decision: 16.09.2016.**

Sanjay Bhatia

--Petitioner

Versus

State of Haryana and others

--Respondents

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

Present: Mr. K.L. Dhingra, Advocate for the petitioner.

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TEJINDER SINGH DHINDSA, J.

The petitioner who is serving as Lecturer/P.G.T. (Mathematics) has filed the instant petition impugning the order dated 06.08.2016 at Annexure P-12 whereby he has been transferred from Government Senior Secondary School, Kalanaur, Block Kalanaur, District Rohtak to Government Senior Secondary School, Bihta, Block Saha, District Ambala.

Counsel would submit that the petitioner was also discharging the duties of A.N.O. (Associate N.C.C. Officer).

The precise grievance set forth in the petition is that the school to which the petitioner has been transferred does not have any N.C.C. Unit and neither is the petitioner upon transfer being sought to be replaced by an N.C.C. Officer.

During the course of arguments, learned counsel has referred to copy of letter dated 20/21.03.1991 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 such 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 29.06.2016 at

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.”

Still further counsel has also adverted to document placed on record at Annexure P-14 i.e. an order dated 30.06.2016 passed by the Additional Chief Secretary to Government of Haryana, School Education Department and which also contains a decision that to ensure uninterrupted N.C.C. Programmes in the schools having N.C.C. Units, a teacher would be replaced by an A.N.O. only.

It is *inter alia* contended that the impugned order of transfer of the petitioner cannot sustain as it is violative of the decisions of the State Govt. contained in the letter at Annexure P-2, the Teachers' Transfer Policy dated 29.06.2016 at Annexure P-9 as also in derogation of the order dated 30.06.2016 at Annexure P-14.

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 29.06.2016 (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 petitioner 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 petitioner has portrayed against his 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.

Petition disposed of.

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

16.09.2016

harjeet

**(TEJINDER SINGH DHINDSA)
JUDGE**

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| (i) | Whether speaking/reasoned? | Yes |
| (ii) | Whether Reportable? | No |