

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 19484 of 2016

Date of Decision:19.9.2016

Yadvinder

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.S.S.Sangwan, Advocate for the petitioner

RAJIV NARAIN RAINA, J. (Oral)

1. I have heard learned counsel for the petitioner and have gone through the paper-book.

2. The grievance of the petitioner is that the petitioner is a JBT Teacher, but has been shown as Head Mistress in the service profile MIS Portal alongwith list (Annex.P-1 colly.). The petitioner has approached the 2nd respondent for correction of her designation in the Portal displayed on the Net. The 2nd respondent declined the request of the petitioner by passing a common order dated 14th September, 2016 (Annex.P-3) which is impugned in this petition. Apart from correcting the apparent mistake in the designation of the petitioner in the Portal of the Education Department, Haryana, learned counsel submits, that his grievance has been acerbated by a communication received from the petitioner today morning vide which the petitioner has been transferred vide order dated 17th September, 2016, copy of which is produced in Court and retained on record as Mark "A".

3. It may be noted that the present petition was filed only for correction of the mistake in the service profile since the transfer order had not been conveyed to the petitioner for her to impugn. There has obviously been an error committed in the generalized order rejecting the case of the

petitioner intermingled with many other grievances together with other cases of employees. Learned counsel prays that his case may be separated to bring justice to him for a review of the transfer order at the hands of the authorities after first correcting the Portal qua the petitioner. There is merit in the submission of the learned counsel that an error on record should not prejudice anyone much less the person aggrieved. If the error is ignored, then the decision is liable to be faulted. The decision to transfer the petitioner is liable to be faulted, by keeping in view the requirements of the Teachers Transfer Policy-2016.

4. In view of this blemish in the proceedings in the office of the 2nd respondent, Director, Elementary Education Haryana, Panchkula on the web site the same eminently calls for interference in this petition, and therefore, a direction is issued to the 2nd respondent to review the case of the petitioner and pass a proper order within three days of the receipt of a certified copy of this order by addressing relevant and true facts by relevant considerations in making a fresh transfer order which is obviously based on a mistake for which the petitioner is not at fault. The fault lies clearly on the person who made the data entry with no revision of data to check faults or vetting done by the superior officers in the office of the Director, Elementary Education Haryana, Panchkula. Had the correction been made timely the fate of the transfer order may have been different.

5. Notice of motion.

6. On the asking of this Court, Mr. Harish Rathee, Sr.DAG, Haryana is requested to accept notice on behalf of the respondent department and to kindly forward a copy of this order to the 2nd respondent to facilitate in the decision-making process on remand with expected and deserved promptitude. No necessity is found to wait receiving a formal response in

writing from the State by way of written statement. Accordingly, the transfer order Mark “A” is set aside as it is built on a incorrect factual foundation and apparently wrong status entered in the Portal changing erroneously the very designation of the petitioner, throwing his case off balance. The department will be careful in future ortherwise it may be visited with exemplary cost if the mistake is repeated in other cases. A direction is issued to Director, Elementary Education Haryana, Panchkula to revisit the List/Portal and remove mistakes therein as pointed out in this petition, failing which, in case of similar complaint brought to court, to be saddled personally with costs and damages. The time of the High Court cannot be wasted on ordering correction of a factual error which results in adverse civil consequences affecting a teacher. The department must remain alive to the fact that litigation is expensive and costs money which a teacher can ill afford.

7. The writ petition thus stands disposed of with the above observations and directions.

8. A copy of this order be handed opver to Mr.Rathee duly attested by the Bench Secretary of this Court, with copy to the petitioner.

19.9.2016
MFK

(RAJIV NARAIN RAINA)
JUDGE

Whether speaking/reasoned

Yes

Whether Reportable

No