

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP No. 19534 of 2016 (O&M)

Date of Decision: 21.09.2016.

Manju Chaudhary

--Petitioner

Versus

State of Haryana and others

--Respondents

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

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

TEJINDER SINGH DHINDSA.J

The petitioner, who is serving as J.B.T Teacher under the Haryana State School Education Department raises a challenge to an order dated 17.9.2016 (Annexure P-29) qua herself and in terms of which she has been transferred from Government Primary School, Sector 28, Faridabad to Government Girls Primary School, Kheri Kalan, District Faridabad.

Counsel would submit that the petitioner was initially appointed and joined service in the year 2004 as J.B.T Teacher and was allocated district Faridabad. Upon bifurcation having taken place petitioner was allocated to Palwal district. Such action was impugned by filing a writ petition and the same was disposed of with a direction to the respondent department to consider her claim to be adjusted in Faridabad district itself. The claim of the petitioner was, however, rejected. This led to the second round of litigation i.e. by filing CWP No.5137 of 2014. Such writ petition was allowed on 2.7.2015, whereby the order declining the request of the petitioner for adjustment in Faridabad district was set aside and directions were issued to reconsider the matter. In pursuance to such directions issued by this Court the request of the petitioner was acceded to and she was

posted to a school within Faridabad district and on which she submitted her joining report on 7.4.2016.

The instant petition has been filed raising a grievance that merely after a period of 5 ½ months she is again sought to be relocated.

Counsel would argue that even though the impugned transfer of the petitioner vide order dated 17.9.2016 is within Faridabad district, yet, the same is in violation of the Transfer Policy framed by the State Govt. dated 29.6.2016 (Annexure P-22). In furtherance of such submission it is argued that the petitioner is sought to be transferred against a deemed vacancy and which is contrary to the Transfer Policy.

Learned counsel for the petitioner has been heard at length.

This Court is of the considered view that terms and conditions contained in a Transfer Policy do not vest an enforceable right. Be that as it may, it is certainly obligatory upon the concerned authorities to keep in mind the Transfer Policy while issuing orders of transfer. These are matters which need to be agitated before the employer/respondent department in the first instance. Accordingly, while declining to interfere at this stage, petitioner is granted liberty to approach respondent no.2 i.e. the Director, Elementary Education, Haryana directly as regards her grievance on the issue of transfer. In the eventuality of any such representation being preferred, respondent no.2 would be obligated to consider the same and thereafter to take a final decision thereupon 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 petitioner as it exists today, shall be maintained for a period of ten days.

Petition is disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

21.09.2016

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Whether speaking/reasoned: Yes
Whether Reportable: No