

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 21559 of 2016

Date of decision:19.10.2016

Deepika Rana

... Petitioner

Versus

State of Haryana & ors.

... Respondents

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

Present: Mr. KL Dhingra, Advocate,
for the petitioner.

RAJIV NARAIN RAINA, J.(Oral)

1. Petitioner is presently working as a Social Studies Mistress in Government Middle School, Deha Basti, Ambala Cantt. In the earlier transfer policies, the Haryana Government had provided protection to special categories of employees eg couple cases, disabled, widows, handicapped persons with chronic disease, blind etc. But in the Teacher Transfer Policy-2016, no protection has been granted to such special preferential categories where only 10 marks have been allotted to them and thus the policy causes disadvantage to such categories. Petitioner's case is a "couple case" and the present criteria has 78 marks. Hence, the petitioner is entitled to 67 or 68 marks out of 78 marks, whereas as per data available on the MIS Portal she has been given only 53.5808 marks thereby causing injustice. As per the criterion adopted in the Teacher Transfer Policy-2016 at Point 8(iii) within, the teachers having 13 or 14 years service are to opt for only 3 zones and not for all 7 zones. Petitioner is left with only 14 years service and is a female employee. But the MIS Portal is not accepting any such information/option of 3 zones and only accepts choice for 7 zones. No

other information is accepted by the Portal due to its software programme.

The petitioner has filed a representation dated October 12, 2016 demanding justice, copy of which is placed at Annex P-7, but the same has not been dealt with and decided so far as no decision on the representation has been conveyed to the petitioner.

2. In view of this position, Mr. Dhingra learned counsel appearing for the petitioner prays that his client will be satisfied if a direction is issued to the Director General, Elementary Education, Haryana, to consider and decide the representation by passing a speaking order. In doing so, the petitioner may supply a copy of this petition which is updated will be treated as a supplementary representation to be decided together with the representation already filed and final orders be directed to be passed thereon.

3. The prayer is found reasonable and in conformity with the well settled principle that in the first instance, the administrator in a case involving transfers and posting must decide the grievance in accordance with law and consequently, a direction is issued to the Director General, Elementary Education, Haryana, to decide the representation within 7 days from the date of receipt of a certified copy of this order and communicate the order in writing to the petitioner, in case the decision is adverse to her. Needless to say that the petitioner would have a right to be heard in case a decision is proposed against her.

4. That apart, in case the representation of the petitioner is found creditworthy by the competent authority then it would not be necessary for him to pass a speaking order containing reasons for the conclusions arrived at and suitable office orders may be issued as per formula adopted for

calculating choice and merit points securing to the petitioner a transfer and posting as per preference etc.

(RAJIV NARAIN RAINA)
JUDGE

19.10.2016
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<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>