

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : C. W. P.No. 1098 of 2016

Date of Decision : February 15, 2016

Yashpal Singh and others Petitioners
vs.
State of Haryana and others Respondents

Case No. : C. W. P.No. 2620 of 2016

Date of Decision : February 15, 2016

Sneh Lata Petitioner
vs.
State of Haryana and others Respondents

Case No. : C. W. P.No. 2941 of 2016

Date of Decision : February 15, 2016

Pawan Kumar and others Petitioners
vs.
State of Haryana and others Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

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To be referred to Reporters or not ?

Whether the judgment should be reported in the digest ?

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Present : Mr. Rajbir Sehrawat, Advocate

for the petitioners in **C. W. P. Nos. 1098 & 2941 of 2016**.

Mr. Sunil Chadha, Senior Advocate
with Ms. Swati Verma, Advocate
for the petitioner in **C. W. P. No. 2620 of 2016**.

Mr. Harish Rathee, Senior DAG, Haryana.

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DEEPAK SIBAL, J. :

Three writ petitions being **C. W. P. Nos. 1098, 2620 and 2941 of 2016** were taken up for hearing together as the transfer order impugned in all these petitions is common.

The petitioners in **C. W. P. Nos. 1098 and 2941 of 2016**, while serving as Post Graduate Teachers (PGTs) in Government Senior Secondary School, Bhiwani Road, Rohtak (hereinafter referred to as – the School), through the order impugned by them, have been ordered to be transferred to different schools in the State of Haryana.

So far as the petitioner in **C. W. P. No. 2620 of 2016** is concerned, she, while serving as Elementary School Head Mistress (ESHM) in the aforesaid School, has also been ordered to be transferred.

Counsel representing the petitioners in **C. W. P. Nos. 1098 and 2941 of 2016** has challenged the order of transfer by submitting that the same is not on administrative grounds and by alleging mala fides qua the private respondents. It is further submitted that the respondent State has stated wrong facts in its written statement, and therefore, for not coming to

the Court with clean hands, they have disentitled themselves to be heard on merits. In this regard, it is submitted that certain documents showing the time table of the School are forged and fabricated.

Learned senior counsel appearing for the petitioner in **C. W. P. No. 2620 of 2016**, in addition to the ground that there is no administrative reason to transfer her, submits that as a couple case and on the ground that the petitioner is chronic patient of Asthama, she should be not transferred.

A perusal of the record and submissions made on behalf of the State of Haryana show that in the School in question, there were disputes between the Trained Graduate Teachers (TGTs) and PGTs on the issue of teaching Classes IX and X. The dispute had resulted in complaints having been filed to different authorities and a preliminary inquiry conducted on such complaints had shown, on account of the aforementioned disputes between the two groups of teachers an extremely unhealthy atmosphere was prevalent in the School, causing loss to the students. The preliminary inquiry conducted under orders of the District Education Officer (DEO), Rohtak further revealed that TGTs were being pressurized by the senior staff of the School and that on the basis of work load, at least 10 PGTs were surplus. Both the afore-referred sets of teachers were found to be refusing to teach students of Classes IX and X and this was in spite of time tables having been set and the prevalent instructions of the Government that it is the PGTs, who have to teach Classes IX and X. In view of the aforesaid

atmosphere prevailing in the school, the conclusion drawn in the preliminary fact finding inquiry was as under :-

“All the lectures of Science and Math Subjects should be transferred from the school for the better atmosphere of education. At least surplus staff must be transferred after allocation of work of surplus staff to Sr. No. 6-8 to TGT & Sr. No. 9-12 to PGT the remaining list is attached. The Principal has disobeyed the Departmental orders. As such disciplinary proceedings should be initiated. Sh. Sunil TGT in Science, Sh. Jitender TGT in Math & Sh. Shaiesh TGT in Math have disobeyed the orders of Principal such disciplinary proceeding should be initiated against them.”

In view of the aforesaid position, all the petitioners in both **C. W. P. Nos. 1098 and 2941 of 2016**, who are PGTs and the sole petitioner in **C. W. P. No. 2620 of 2016**, who is the Headmistress of the Elementary wing of the School and the senior most TGT in the School, have been ordered to be transferred. It has further been recommended that the Principal and the other three TGTs namely Shri Sunil, Shri Jitender and Shri Shaiesh be departmentally proceeded against.

In view of the aforesaid prevalent atmosphere in the School, the respondent Authorities, for administrative reasons, have considered it just and proper to pass the impugned transfer orders.

So far as the allegations of mala fides are concerned, it was alleged that the TGTs, in connivance with the DEO and the Block Education Officer (BEO), after using the influence of political leaders including the Education Minister, Haryana have got the petitioners in **C. W. P. Nos. 1098 and 2941 of 2016**, transferred.

So far as the Education Minister is concerned, he has not been impleaded as a party to the litigation and thus, no allegations against him can be allowed to be raised.

With regard to the allegations against the DEO and BEO, the record reveals that under orders of the District Elementary Officer, Rohtak, the BEO, Rohtak had held a preliminary inquiry, a perusal of which shows that he has not only recommended the impugned transfers, but has also recommended departmental action against the TGTs, who were alleged by the petitioners to be in connivance with him. Had the TGTs been in connivance with the BEO, Rohtak, as alleged, he would have not recommended disciplinary action against them.

The submission raised by learned counsel for the petitioners in **C. W. P. No. 1098 of 2016** with regard to production of a forged time table by the respondents is vehemently disputed by them. Such factual disputes

cannot be gone into in writ proceedings. In the light of the same, learned counsel for the petitioners in **C. W. P. Nos. 1098 and 2941 of 2016** seeks and is granted liberty to raise the issue of filing of alleged false documents before an appropriate forum.

In view of the above, finding no merit, all these three petitions being **C. W. P. Nos. 1098, 2620 and 2941 of 2016** are ordered to be dismissed.

The record reveals that no teacher has been transferred in the place of the petitioners and such a situation would not be in the interest of the students. In view of this fact, a direction is issued to the State of Haryana to forthwith post adequate number of teachers, as would be required in the School in question after the petitioners have been transferred.

A perusal of the afore-referred preliminary fact finding inquiry by the BEO, Rohtak shows recommendation of disciplinary proceedings against the Principal and the TGTs mentioned therein. It is directed that the final decision with regard to the same be taken by the competent Authority expeditiously but not later than one month from the date of receipt of a certified copy of this order.

(DEEPAK SIBAL)
JUDGE

February 15, 2016
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