

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

CWP No. 4543 of 2016

Date of decision: 10.3.2016

Shallu Arora

... Petitioner

Versus

State of Punjab & ors.

... Respondents

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

Present: Mr. Vishal Gupta, Advocate,
for the petitioner.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.(Oral)

1. The petitioner is an Elementary Teacher posted in a school located about 20 kilometers from Jalalabad working there for the last 8 years. Her child is suffering from Thalassemia and is under treatment at the PGI Chandigarh, where she has to accompany her child every fortnight for blood transfusion. A distance of about 40 kms. is involved in commuting to and fro from Jalalabad on work days. She has requested her department for transfer to a Government School in Jalalabad in terms of the transfer policy of the State of Punjab dated June 8, 2015 [Annex P-3] which provides in para. 2(d) for transfer on the mental condition of a child as reason for sympathetic consideration thereby obligating Government to make effort to post the employees whose child suffers ailment at the place of their choice. Though the term “mental” is employed as the condition for transfer by choice in the policy in para 2 (d), but the policy falls short of enumerating other conditions which may

be potentially as debilitating, if not worse, and capable of falling in the spirit of para 2(d). However, classification of other medical conditions is for the policy-maker but the range must be reasonable calling for suitably expansion in defining conditions which may call for special attention. The restriction deserves to be relaxed in cases such as would cover family problems arising from special needs a parent might face in rearing severely disabled children. For instance, the polio afflicted, those suffering from diseases that preoccupy parents with prolonged medical treatment etc. I fail to see why the concessions in the policy should not extend to thalassemics.

2. However, for the time being, the attention of the Court is restricted to the two representations dated July 22, 2015 and September 1, 2015 [Annex P-6 & P-7 respectively] forwarded by the petitioner requesting transfer and posting in school in Jalalabad which will help the petitioner to meet the periodic challenges involved for management of a child suffering from Thalassemia. Since the transferring authority has not made a decision thereon, it will not be possible to interfere in writ jurisdiction at the present stage without knowing the view of the respondents on the request but which deserves attention.

3. In the circumstances, learned counsel for the petitioner submits that it would suffice if a direction is issued to the respondents to decide the representations by 'a sympathetic attitude' the expression used in para 2(d) of the transfer policy and in case the situation the petitioner is predicated in may demand that the transfer to a nearby Government School in Jalalabad where a post may be available, to lighten her burden.

In case it is not possible for the present, then to consider the request during the time of general transfers this year. Learned counsel for the petitioner further submits that he has approached this Court not for securing a temporary measure but for a long term solution to the petitioner's problem on empathetic and humanitarian grounds.

4. In the spirit of this request, a request is issued to respondents No.2 & 3 to take the representations of the petitioner in hand, hear her personally on her predicament and to make a decision thereon and communicate the same to her. It will be appreciated if this exercise is concluded as soon as possible and at least within 6 weeks from the date of receipt of a certified copy of this order, if not earlier. Being a matter of transfer and posting, where interference by writ is few and far between, the Court does not expect a speaking order to be passed and instead hopes for a sympathetic consideration by the transferring authority which “attitude” will go far; reflecting his wisdom, sagacity and sensitivity to the cause.

5. With these observations and request, the petition stands disposed of.

(RAJIV NARAIN RAINA)
JUDGE

10.3.2016
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