

In the High Court of Punjab and Haryana at Chandigarh

C.W.P. No. 8953 of 2016

Date of Decision: February 21, 2017

Mahabir Singh

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

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

Mr. Apoorv Garg, DAG, Haryana.

P.B. Bajanthri, J. (Oral)

Policy dated 06.08.2015 relating to Inter District Transfer Policy (2015) provides for transfer of Head Teachers / Primary Teachers and Classical and Vernacular (C&V) Teachers working on regular basis in Elementary Education Department of Haryana vide Annexure P/4. Clause (3)(xii) of the Policy provides for Inter District transfer which reads as under:-

“3. Order of Preference:

(i) to (xi) xx xx xx

(xii) *HT/PRT and C&V male teachers whose wives are employed in other Districts under School Education Department of Haryana. All those male HT/JBT and C&V teachers whose wives are working on regular basis in the District cadre of other Department(s) of Haryana Government shall also considered in this group.*

These teachers shall attach certificate duly issued by the officer incharge of the Department/Office where their wives are working, stating details of their appointments/postings etc.”

Pursuant to the above clause, petitioner is stated to have submitted application for Inter District transfer from Faridabad to Rohtak on the score that the petitioner's wife is working in Rohtak. The petitioner's application was considered and he has been transferred from Faridabad to Rohtak on 01.04.2016 vide Annexure P/6. The same has not been given effect on the ground that condition no. 9 of the transfer order dated 01.04.2016, it is stated that no Head Teacher should be transferred because the transfer of Head Teacher will effect the interest of senior JBT Teachers of next District who could not be promoted as Head Teacher yet.

Learned counsel for the petitioner submitted that order of transfer dated 01.04.2016 has not been given effect merely on condition No. 9 stipulated in transfer order dated 01.04.2016. It was submitted that no such clause is forthcoming in the policy dated 06.08.2015, unless and until 2015 policy is amended appropriately. The Director, Elementary Education, Haryana cannot impose condition no.9 stated in the transfer order. Therefore, the 4th respondent in not permitting the petitioner to join at Rohtak is highly arbitrary and illegal and contrary to Inter District Transfer Policy

On the other hand, learned State counsel submitted that having regard to the clause imposed in condition no.9 in the transfer order, the same has not been given effect.

Heard learned counsel for the parties.

Perusal of the Inter District Transfer Policy (2015) issued on 06.08.2015 includes Head Teachers and there is sub clause (xii) of clause 3 permits for such of Head Teachers / Primary Teachers and C&V male teachers whose wives are employed in other Districts under School

Education Department, Haryana, they are permitted to seek Inter District transfer. Accordingly, petitioner has made a necessary application and the same has been considered and order has been passed transferring him from Faridabad to Rohtak. Condition no.9 in transfer order cannot be imposed for the reasons that no such conditions are imposed in Inter District Transfer Policy (2015) as long as the said policy has not amended appropriately. In the order of transfer the authority cannot impose any condition which is contrary to the transfer policy of 2015.

In view of these facts and circumstances, the concerned respondent is directed to give effect to the transfer order i.e. Inter District transfer of the petitioner from Faridabad to Rohtak which is in terms of policy dated 06.08.2015 by passing necessary order within a period of three weeks from today.

Petition stands allowed.

February 21, 2017
vkd

[P.B. Bajanthri]
Judge

Whether reasoned / speaking : Yes

Whether reportable : No