

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

**CWP No.8593 of 2017
Date of decision: 06.10.2018**

Jaivinder Singh

.....Petitioner

Versus

The State of Haryana and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ajit Kumar Sharma, Advocate,
for the petitioner.

Mr. Gaurav Jindal, Addl. A.G., Haryana.

Ritu Bahri, J.

Petitioner is seeking quashing of the order dated 22.09.2016 (Annexure P-6) passed by respondent No.1, whereby respondent No.4 being lower in merit, has been posted in Govt. Senior Secondary School, Karawara Manakpur, which was opted by the petitioner. Petitioner is also seeking quashing of order dated 28.09.2016 (Annexure P-11), whereby he has been transferred to Govt. Senior Secondary School, Bawwa, which was his option after Govt. Senior Secondary School, Karawara Manakpur. Further direction is being sought to the respondents to implement the transfer policy dated 30.04.2016 (Annexure P-1), which lays down the criteria for deciding the claim of any teacher against a vacancy.

Case pleaded by the petitioner is that as per Teachers Transfer Policy, 2016 (Annexure P-1), he submitted options through online application for transfer (Annexure P-2). Pursuant to the said application, vide order dated 06.08.2016 (Annexure P-3), petitioner was transferred to Govt. Senior Secondary School, Khandora, which was never opted by him.

He gave online representation dated 09.08.2016 (Annexure P-4) that he had

never given his option for the allotted school and he should be transferred to Govt. Senior Secondary School, Motla Kalan, which was his first option in Zone-6. Vide order dated 22.09.2016 (Annexure P-6), petitioner was transferred to Govt. Senior Secondary School, Gugodh, which was his second option. When he went to join at that place, the Principal, Govt. Senior Secondary School, Gugodh, wrote a letter dated 26.09.2016 (Annexure P-7) to respondent No.3 that he was not in a position to allow the petitioner to join as there was no vacant post in the school. Thereafter, petitioner send emails (Annexures P-8, P-9 & P-10) to the office of respondent No.2 seeking his transfer to Govt. Senior Secondary School, Karawara Manakpur, where his junior being lower in merit, had been transferred. Thereafter, vide order dated 28.09.2016 (Annexure P-11), petitioner was transferred to Govt. Senior Secondary School, Bawwa, which was his fourth option. Against this order, petitioner again made a representation (through email) dated 07.10.2016 & 17.10.2016 (Annexures P-12 & P-13), but no action has been taken thereon. Hence, the present petition.

Learned counsel for the petitioner has vehemently argued that as per Transfer Policy-2016, decision of allotment of vacancy has to be based on the total composite points earned by a teacher. Out of 78 points, petitioner has earned 37.3589 points, whereas respondent No.4 has earned 34.9836 points. Therefore, petitioner being higher in merit ought to have been transferred to Govt. Senior Secondary School, Karawara Manakpur in place of respondent No.4. He has further argued that once, criteria has been laid down in the transfer policy dated 30.04.2016 (Annexure P-1), the petitioner should have been given priority for sending him in Govt. Senior

Secondary School, Karawara Manakpur in place of respondent No.4. But, he has been wrongly transferred to Govt. Senior Secondary School, Bawwa, which was his fourth option.

Upon notice, short affidavit has been filed by Assistant Director (Lecturer) office of Director, Secondary Education Department, Shiksha Sadan, Panchkula stating that the petitioner has been posted in Govt. Senior Secondary School, Bawwa (Rewari) as this was one of his options in the application. He has submitted his joining report on 04.10.2016. After that the 2nd transfer drive for the year 2017-18 has been completed and request of the petitioner cannot be accepted at this stage. Once, the petitioner has given his option, he cannot claim posting in another school of his choice as a matter of right.

Heard, counsel for the parties.

It is not the case of petitioner that he had not given his option to be posted at Govt. Senior Secondary School, Bawwa (Rewari). In fact, as per his application (Annexure P-2), this was his 4th option. Respondent No.4 has been posted in Govt. Senior Secondary School, Karawara Manakpur, which was the 3rd option of petitioner. The object of taking options is that the teachers should be placed at the stations which are convenient for them. In making this adjustment, options are taken. Once, the petitioner has given his option, he cannot claim, as a matter of right that he should be given posting at a particular place. In the case of the petitioner, vide order dated 22.09.2016 (Annexure P-6), he was transferred to Govt. Senior Secondary School, Gugodh, which was his 2nd option. But, he could not join there as there was no vacant post as per information given by the Principal vide letter dated 26.09.2016 (Annexure P-7). Respondent No.4-

Bhupender Panwar was transferred vide same order dated 22.09.2016 (Annexure P-6), to Govt. Senior Secondary School, Karawara Manakpur, which was petitioner's 3rd option and he (respondent No.4) joined there. As per the said order, petitioner was transferred to Govt. Senior Secondary School, Gugodh, which was his 2nd option, however, on account of non availability of vacancy, he could not join there. Thereafter, he has been rightly adjusted in Govt. Senior Secondary School, Bawwa, which was his 4th option. Hence, in the first transfer order dated 22.09.2016 (Annexure P-6), he was transferred to a school as per his 2nd option, which was over and above respondent No.4. Now, respondent No.4 cannot be disturbed as he has already joined in Govt. Senior Secondary School, Karawara Manakpur in the year 2016. As per reply filed by the respondents, even the second transfer drive for the year 2017-18 has been completed. Petitioner has no right to claim posting to a school, where respondent No.4 has already joined as the petitioner was given posting as per his own options (i.e. option Nos.2 & 4) according to application form (Annexure P-2). Respondent No.4 was given that school being lower in merit. The only reason that the petitioner could not join in Govt. Senior Secondary School, Gugodh was that no vacant post was available there. Now, he has been rightly adjusted as per his option No.4.

In view of the above discussion, no ground is made out to interfere in the transfer orders.

No merits. Dismissed.

06.10.2018
ajp

(RITU BAHRI)
JUDGE