

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP NO. 12579 of 2019(O&M)
DATE OF DECISION : 27.05.2019

Mamta Sarin

... Petitioner

versus

Union of India & Ors.

... Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Jai Vir Yadav, Advocate,
for the petitioner.

Ms. Anita Balyan, Advocate
for Union of India-respondents.

ARUN MONGA, J. (ORAL)

CM-8374 & 8376 of 2019

Applications are allowed, as prayed for and written statement
along with accompanied documents are taken on record.

Replication filed in the Court during the course of hearing is
taken on record and a copy thereof is given to learned counsel for the
respondents.

CWP NO. 12579 of 2019

1. The present petition has been filed, *inter alia*, for issuance of writ in the name of *certiorari* to quash impugned order dated 15.10.2018 (Annexure P-1) vide which the petitioner has been transferred from Military Hospital, Ambala to Command Hospital, Udhampur (J&K) and order dated 24.04.2019 (Annexure P-9), whereby her request for cancellation of transfer

order or to grant extension at the present place of posting has been declined .

2. The grievance of the petitioner is that her transfer has been made in violation of the transfer policy which provides for lenient view to be taken regarding transfer of Officers during current academic session of their children studying in 10+2 Class, which would adversely affect their studies. It is the case of the petitioner that the respondents have failed to consider her genuine cause in the light of policy, while rejecting her representation.

3. In the return filed to the writ petition, the respondents have averred that an application dated 10.03.2018 (Annexure R-6) was submitted by the husband of the petitioner seeking choice posting on the ground of education of their son, who at the relevant time, was completing his Class XI Studies at Ambala. Therein, he mentioned his first choice as Dehradun. He was not accommodated immediately but lateron, he was transferred to Dehradun sometime in May, 2018. Pursuant thereto, he joined at Dehradun in August, 2018.

4. Learned counsel for the petitioner points out that since at the relevant time the academic session 2018-2019 was to commence in April, 2018 and the petitioner was posted at Ambala, therefore, they allowed their son to continue studying at Army Public School Ambala Cantonment. According to him, though the husband of the petitioner was later transferred to Dehradun and he joined there in August, 2018 but transfer was not on the ground of education of the child. It was owing to his having been put in Low Medical Category.

5. Learned counsel for the petitioner further submits that due to

circumstances beyond their control, neither the petitioner nor her husband, at the relevant time, could pre-conceive the situation where the petitioner would also be transferred from Ambala which was the reason that they did not admit their child at Dehradun, since academic session had already begun.

6. Per contra, learned counsel for the respondents submits that the petitioner cannot be allowed to take advantage of the transfer policy twice on the ground of education of the child as the same benefit has already been granted to her husband. According to her, Army Schools permit inter-school transfers in the mid of academic sessions in case of transfer of parents of the child.

7. I have heard learned counsel for the parties and have gone through the paper-book carefully.

8. The arguments of learned counsel for the petitioner are completely out of place, in view of the fact that as long as the petitioner's husband was accommodated at Dehradun, they could have easily got their son admitted in Army School, Dehradun, but they chose otherwise.

9. In the circumstances, ordinarily, the writ petition would have been dismissed at the very threshold since the benefit of transfer policy on educational ground has already been availed by husband of the petitioner. However, learned counsel for the petitioner submits that an equitable view be taken on furnishing of an undertaking by the petitioner that on the culmination of the current academic session at Army Public School, Ambala, where the son of the petitioner is studying, she would forthwith relinquish the charge from her current place of posting and join wherever she is required to serve by the respondents.

10. In the aforesaid premise, the writ petition is disposed of with an observation that respondents would take a sympathetic view on the request of the petitioner and in the peculiar circumstances allow her to continue at present place of posting subject to her furnishing the undertaking in terms of para 9, *ibid*.

11. No order as to costs.

(ARUN MONGA)
JUDGE

May 27, 2019
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| 1. Whether speaking/ reasoned: | Yes/ No |
| 2. Whether reportable: | Yes/ No |