

CWP-19538-2018 (O&M)

228-1

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

**CWP-19538-2018 (O&M)
Date of decision : 15.07.2019**

Krishan Kumar

... Petitioner(s)

Versus

State of Haryana and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. S.K. Nehra, Advocate
for the petitioner.

Mr. Harish Nain, AAG, Haryana.

AMIT RAWAL, J. (ORAL)

The short point involved in the present writ petition is whether the petitioner, who is suffering from locomotive disability, as per medical certificate (Annexure P-2), can be transferred with a common order.

The petitioner is stated to have appointed as Primary Teacher (PRT/JBT), in pursuance to advertisement No.2 of 2012.

Mr. Nehra, learned counsel appearing on behalf of the petitioner submitted that the selection, aforementioned, is already subject matter of adjudication in the LPA Nos.720 of 2016 and 686 of 2016 and various others, wherein, vide order dated 20.04.2017, 54 posts of JBT were ordered to be kept vacant so as to accommodate the appellant-writ petitioners, but later on, the aforementioned order was modified, vide order dated 08.05.2017, whereby the State is directed to identify the total number of posts, as per original merit list or revised list or in terms of the directions

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issued by learned Single Judge(s) and as an interim measure, offer appointments strictly in order of merit as per the revised merit list. The respondent(s), vide Annexure P-7), instead of considering the petitioner as a permanent employee, treated him on Ad hoc basis, whereas it should have been interim arrangement in view of order of this Court. The petitioner was earlier allocated District Yamuna Nagar, but on a request of allocation of home District i.e. Hisar, as per policy of the Government, vide order dated 13.03.2018 (Annexure P-7), was allocated District Hisar. Intriguingly, the Director Elementary Education, Haryana/respondent No.2, vide Annexures P-9 and P-10, communicated to all District Elementary Education Officers, for cancellation of transfer/adjustment orders of Guest Teachers, including all Ad hoc JBT Guest Teachers, though in merit, who have come in the revised list i.e. as per order dated 08.05.2017 of this Court. Though, the petitioner is only confining the relief with regard to the transfer as expression 'Ad hoc' cannot be construed to be correct, once the petitioner has joined the services through regular process.

Mr. Harish Nain, AAG, Haryana, has drawn the attention of this Court to the written statement, wherein it has been mentioned that the petitioner is allowed to continue in District Hisar, till regular employee joins.

In rebuttal, Mr. Nehra submitted that word 'regular employee' cannot be construed to be correct as the petitioner cannot be treated as Ad hoc employee. It would have been tentative list, subject to the outcome of LPA, even this fact could not be disputed by the State Counsel.

Be that as it may, policy dated 07.04.1989 (Annexure P-11), has laid down the parameters that as far as possible, the handicapped and

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the blind employees be shown due consideration to mitigate their inconvenience while considering the question of their postings and transfers. The aforementioned policy has already been upheld by the Division Bench of this Court in **CWP No.9773 of 1994** titled as **“Kulwant Kaur V/s State of Punjab**, decided on 01.11.1994.

In view of the stand taken by the State, the grievance of the petitioner viz-a-viz the transfer stands vindicated.

With the aforesaid observations, the present writ petition stands disposed of as having been rendered infructuous.

15.07.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned	Yes/ No
Whether Reportable	Yes/ No