

241 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 3277 of 2015.

Date of Decision: 20.03.2019.

Chhama Rani

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. Vivek Sharma, Advocate,
for the petitioner.

Ms. Kanica Sachdeva, AAG Punjab.

Respondent No.3 proceeded against *ex parte* vide
order dated 14.08.2018.

JITENDRA CHAUHAN.J.

The petitioner seeks quashing of the order dated 12.02.2015 (Annexure P-9) vide which she was transferred from Government Senior Secondary School, Tanda Badha, Tehsil Amloh, District Fatehgarh Sahib to Government Senior Secondary School, Daulat Singh Wala District Mohali.

The petitioner was appointed as Lecturer (Music) on 24.02.1996. She was awarded Best Teacher Award (Annexure P-1) by Parents Teachers Association, Organisation of the School while she was posted at Nabha and was promoted to the post of Principal on 16.02.2010. She was awarded State Award for performing good service in public vide certificate dated 21.10.2011 (Annexure P-2). Not only that, the villagers had made representation (Annexure P-3) to the respondents that the name of the petitioner should be recommended for

National Award. The petitioner being Principal of the school had to appoint School Management Committee comprising of parents of the students. Respondent No.3 who is husband of the Sarpanch of the village was member of the School Managing Committee as his ward had been studying in the school who subsequently was shifted to some private school. Thus, while making a new school managing committee for the year 2013-14, the petitioner removed the name of respondent No.3 due to which he became inimical towards the petitioner. Despite the adverse conditions, the petitioner kept working in the school for the betterment of the students. On 23.07.2014 the petitioner made a representation (Annexure P-4) to the Deputy Commissioner, Fatehgarh Sahib against the Panchayat as it had been interfering in the functioning of the school. One Harbans Kaur a History Teacher was very rude to the students and her colleagues and had also embezzled the amount collected from the school for Chief Minister Relief Fund. The petitioner made a complaint against her and on an inquiry being conducted, Harbans Kaur was held guilty vide inquiry report (Annexure P-6).

The Sarpanch along with said Harbans Kaur and others started making complaint against the petitioner. It is asserted that the respondents under the influence of the aforementioned persons transferred the petitioner from Government Senior Secondary School, Tanda Badha, District Fatehgarh Sahib to Government Senior Secondary School, Daulat Singh Wala District Mohali. The transfer

was carried out with a *malafide* intention at the behest of respondent No.3 and others who were inimical to the petitioner.

On the other hand, it is contended that a complaint dated 08.02.2014 was received against the petitioner and one Sajjan Singh. In the complaint, Harbans Kaur had levelled allegations of irregularities in the disbursement and misappropriation of scholarships by forging the signatures of the students by the petitioner and Sajjan Singh. The Gram Panchayat of village Tanda Badha Kalan, Tanda Badha Khurd, Paheri, Bugga Kalan, Kapoorgarh and Raipur Chobdaran had also made complaints dated 23.06.2014 and 26.06.2014 to the Education Minister against the petitioner and Harbans Kaur wherein it had been alleged that the aforesaid two teachers were responsible for creating groups among the school staff and were spoiling the healthy atmosphere of the institution. Due to enmity between the petitioner and Harbans Kaur, the strength of the students had been decreasing. The Panchayats unanimously requested for the transfer of the petitioner and Harbans Kaur Lecturer History.

Heard.

The enquiry report prepared by District Education (S.E.), Fatehgarh Sahib on the complaint made by Harbans Kaur against the petitioner reads as under:-

“After considering/analysing the above facts and the scrutiny of the school record, it becomes clear that it is not so much a matter of embezzlement as it is of

mutual enmity. The allegations of the complainant do not stand proved. It appears that this complaint is a result of the enmity and quarrel of both. The village Panchayat and the eminent persons have demanded the transfer of both the Principals and Mrs. Harbans Kaur, History Lecturer from the school so that the atmosphere of the school becomes normal.”

In the **Registrar, High Court vs. Vasudevan A.K.**

And others (1996) 1 MLJ 153, it was held as under:-

“The scope of judicial review in matters of transfer of a government servant to an equivalent post without any adverse consequence on the service or career prospects is very limited being confined only to the grounds of mala fides and violation of any specific provision or guideline regulating such transfers amounting to arbitrariness. It is also settled law that for the said purpose, no roving inquiry into the matter is called for or justified within the scope of judicial review of a transfer scrutinised with reference to the private rights of an individual.”

A perusal of the inquiry report reveals that there was no embezzlement by the petitioner. The factum of mutual enmity had resulted into transfer of the petitioner. The petitioner is a State Awardee. Her name had been recommended for National Award as well. From the entire narration of the facts it emerges that the transfer was a result of *malafide* and the petitioner had been made to suffer for the complaint made against Harbans Kaur. The report prepared by

Deputy District Education Officer (Senior Secondary), Fatehgarh Sahib on the complaint made by the petitioner against Harbans Kaur reads as under:-

“By carefully perusing the above said facts it can be concluded that all the charges levelled against Sh. Mandeep Singh Lecturer English and Smt. Harbans Kaur, Lecture History stands proved. Both these lecturers are careless towards students, usually spoils studying atmosphere of school by quarrelling and are culprit for tampering government record, using bad words for Principal, disobeying orders of their seniors and misbehaving with Village Panchayat and other respectable. It is appropriate to take strict disciplinary action against them.

In view of above, the present petition is allowed. The order dated 12.02.2015 (Annexure P-9) is quashed. However, the respondents are free to transfer the petitioner as per transfer policy of the State.

20.03.2019.
SN

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No