

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CWP No.25668 of 2017 (O&M)

Date of Decision.18.10.2019

Kashmeer Singh and others

...Petitioners

Vs

State of Haryana and others

...Respondents

2. CWP No.7390 of 2018 (O&M)

Suraj Pal Rana

...Petitioner

Vs

State of Haryana and others

...Respondents

3. CWP No.10357 of 2018 (O&M)

Dalbir Singh and others

...Petitioners

Vs

State of Haryana and others

...Respondents

Present: Mr. IPS Kohli, Advocate
for the petitioners.

Mr. Hitesh Pandit, Advocate
for DHBVN.

Mr. Anil Chawla, Advocate
for UHBVN.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J. (ORAL)

C.M. No.14185 of 2019 in Cwp No.25668 of 2017

Application is allowed.

Annexure P-15 is taken on record, subject to all just exceptions.

C.M. No.14257 of 2019 in CWP no.10357 of 2018

Application is allowed.

Written statement filed on behalf of respondents No.1 to 3 is taken on record.

Main Cases

This order of mine shall dispose of three writ petitions bearing Nos.25668 of 2017, 7390 & 10357 of 2018. Facts are being enumerated from CWP No.25668 of 2017.

Petitioners, 15 in number, have sought quashing of orders dated 12.12.2014 (Annexure P-12), 15.07.2015 (Annexure P-13) and 17.05.2016 (Annexure P-14) whereby prayer for Inter Utility Transfers from DHBVN to UHBVN has been rejected. Petitioners are working as Group 'C' employees having been appointed between 2009 to 2011 and assigned postings, in pursuance of advertisement No.13/2007 and 4/2008.

Mr. Kohli, learned counsel appearing on behalf of the petitioners submits that against similar appointments made in pursuance to Advertisement No.8/2006, there was already policy dated 23.12.2010 (Annexure P-2) invoked for Inter Utility Transfer. Though the recruitment was for joint power department, vide Annexure P-3, respondents accepted request of 600 employees for Inter Utility Transfer but no such policy was ever framed for 2007-2008 recruits. The Department had also undertaken a selection in November, 2009, however, for appointees of 2019, came out with Policy (Annexure P-15) dated 26.07.2019 to exercise options for Inter Utility Transfer. Petitioners' places of posting are far away and the reason assigned is absence of any policy but the respondents cannot adopt a pick and choose policy by rejecting prayer of employees appointed in pursuance of 2007-2008 advertisement but have been protecting interest of similar appointees of 2006 and 2019.

On instructions from their clients, he is willing to forego their seniority in case their request for framing of policy or exercising option is acceded to.

Mr. Hitesh Pandit, learned counsel appearing for DHBVN and Mr. Anil Chawla, learned counsel appearing for UHBVN submitted that option offered vide Annexure P-1 was not opted by the employees owing to the fact that they had to forego their seniority but did not deny policy of 2006 and 2019 much less the fact that benefit of transfer amongst different utilities of Haryana Power Generation was extended. The impugned orders do not suffer from any illegality or fallacy, for, petitioners cannot seek the Inter Utility Transfer in the absence of policy, which is totally in domain of Board of Directors of DHBVN and UHBVN, thus, urges this Court for dismissal of the writ petition.

I have heard learned counsel for the parties, appraised the paper book and of the view that writ petition can be disposed of with a direction to consider the case of the petitioner(s), particularly, when they are willing to forego seniority, in view of the fact that for recruits of 2019, a policy of Inter Utility Transfer dated 26.07.2019 (Annexure P-15) has already been promulgated. Even certain employees selected through Advt. No.8/2006 were also transferred. One can understand that there was no such policy, therefore, right was created for the petitioners for the first time. Petitioners are in disadvantageous situation having been selected in pursuance of advertisement caused in 2007-2008, as request of employees selected through Advt. No.8/2006 for inter utility transfer has been acceded to. This Court cannot remain oblivious of the fact that after selection of the petitioners, respondents have again come out with a policy of Inter Utilities

Transfer extending the benefit to 2019 recruits.

In view of such circumstances, I dispose of writ petition with direction to the Managing Director of UHBVN and DHBVN to hear the petitioners and consider their cases by framing a policy or exercise again the jurisdiction for transfer after calling options from employees, subject to terms and consideration of policy of 2011 and other policies issued from time to time after recruitment process of 2007-2008 was over, particularly, foregoing of the seniority.

Let this exercise be undertaken within a period of two months from the date of receipt of certified copy of this Court.

(AMIT RAWAL)
JUDGE

October 18, 2019
Pankaj*

Whether speaking/reasoned	Yes
Whether reportable	No