

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

**CM Nos.3702 & 3999-CWP-2019 in/and
CWP No.32673 of 2018**

Date of decision : 14.03.2019

Jail Warders Class III Welfare Association

...Petitioner

Vs.

State of Haryana and another

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ashwani Kumar Chopra, Senior Advocate,
with Mr. Deepak Sonak, Advocate,
for the petitioner.

Mr. Lokesh Sinhal, Addl. A.G., Haryana.

Ritu Bahri, J. (oral)

CM Nos.3702 & 3999-CWP-2019

With the concurrence of learned counsel for both the parties,
main petition i.e. CWP No.32673 of 2018 is preponed and taken up today
itself for disposal.

CWP No.32673 of 2018

Petitioner-association is seeking quashing of the online transfer
policy dated 04.08.2018 (Annexure P-3).

Heard, counsel for the parties.

A perusal of Para 273 of the Punjab Jail Manual shows that
earlier there was a provision to transfer a Jail Warder, if he had remained at
a Central Jail or at a first or a second class District Jail for more than five
years; at third or fourth class District Jail for more than three years and at a

subsidiary Jail for more than one and a half years. However, as per transfer policy dated 04.08.2018 (Annexure P-3), stay in all the Jails is made five years and a Warder will be transferred only after a period of five years, whether he is working in Central Jail, first or second class District Jail, third or fourth class District Jail or subsidiary Jail. This policy has become consistent for all the Jail Warders irrespective of the class of jail, where they are posted. Nobody will be transferred before five years. This new transfer policy has removed the anomaly, which was in Para 273 of the Punjab Jail Manual.

Mr. Chopra has argued that some of the employees, who have been transferred, are due to retire within one year and this is against the provisions of general transfer policy.

This mistake will be rectified by the respondents by cancelling the transfer orders of all the Jail Warders, who are due to retire within one year.

Learned State counsel has further informed that pursuant to letter dated 01.03.2019, 352 Jail Warders have exercised their options. About 246 Warders have been given first preference in terms of their transfers/postings.

Learned counsel for the petitioner has further argued that vide letter dated 01.03.2019, only two days were given to give options and due to this reason, majority of the Jail Warders (about 805) could not exercise their options.

The only grievance of the petitioner, now, is that the Jail Warders were given only two days' time to exercise their option and in this backdrop, only 352 Warders were able to do so. Mr. Chopra further argued

that a Jail Warder has to be posted at a station for five years and he is given only one leave. It is difficult for him to meet his family.

In this backdrop, this Court is of the view that two days' more time should be given to the Jail Warders to exercise their option.

Accordingly, this petition is disposed of by giving direction that except aforesaid, 352 Jail Warders, all the remaining Warders will be given two days' time to give their options and thereafter, the respondent-State can modify the transfer order (Annexure P-4). It is further clarified that this modification will not amount to a fresh order and it will not be affected by the prevailing Model Code of Conduct. The vacant posts, on which the transfer order has to be modified, will remain the same as reflected in the order (Annexure P-4). The impugned policy does not require to be interfered with as it is beneficial for all the Jail Warders and has removed the anomalies of Para No.273 of the Punjab Jail Manual only. The transfer order of aforesaid 352 Warders will be carried out as they have already exercised the options. It is further directed that the petitioner-association will inform all the Jail Warders to give their options by Saturday evening i.e. 16.03.2019 and the respondent-department will put it on the website today itself, so that by Saturday evening, everybody can exercise the option.

14.03.2019
ajp

(RITU BAHRI)
JUDGE

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