

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

(1) CWP No.3426 of 2019
Date of Decision: 27.02.2020

Ravi Kumar and others

.....Petitioners

Versus

State of Haryana and others

.....Respondents

(2) CWP No.20183 of 2017

Kapil and others

.....Petitioners

Versus

State of Haryana and others

.....Respondents

(3) CWP No.22132 of 2017

Brajesh Sharma and others

.....Petitioners

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present: Mr. Aakash Juneja, Advocate
for the petitioners in CWP-3426-2019.

Mr. Naveen Singh Panwar, Advocate
for the petitioners in CWP-20183-2017.

None for the petitioners in CWP-22132-2017.

Mr. Pankaj Mulwani, DAG, Haryana.

Mr. Rajeev Kawatra, Advocate
for respondent Nos.2 and 3 in CWP-3426-2019 and
for respondent Nos.3 and 4 in CWP-20183 & 22132-2017.

NIRMALJIT KAUR, J. (ORAL)

All the aforementioned writ petitions shall stand decided by

this common order as the issue involved is identical.

For convenience, the facts are being taken from CWP No.3426 of 2019. The prayer is only to the extent of allowing the petitioners to take part in the selection process with a direction to respondent No.2 to forward the applications of the petitioners to respondent No.1 with immediate effect.

It is not disputed that by way of an interim order, respondent/Sessions Court was directed to forward the applications of the petitioners to the concerned departments, which has already been done and the petitioners have already participated in the selection process but are awaiting the result.

In the reply filed by the respondent/State, it is stated that they are bound by the instructions of Government. It is pointed out that as per advertisement dated 15.01.2019 (Annexure P-1), applications were invited to fill up the posts of Steno in Haryana Civil Secretariat on transfer basis and the same was addressed to the Head of all Haryana Departments but not to the District and Sessions Court. It is further stated that in such a situation, the petitioners, who are employees in District Courts, in any case, are not eligible to apply against the posts on transfer basis.

Reply has also been filed by respondent Nos.2 and 3. As per the said reply, the High Court had framed the policy dated 30.05.2003 regarding sending the officials on deputation to the other departments on transfer basis, which reads as under:-

“(i) no application of the employees working in the Subordinate Courts may be forwarded to other departments on deputation basis.

(ii) The application for appointment by transfer to other departments, by way of advertisement or circulation, of

the employees working in the Subordinate Courts may be forwarded with the express condition that in case their selection, is made, no lien will be retained and if they, intend to go, they are to submit resignation from their posts.”

Those instructions/policy was further amended on 23.12.2009, placed on record as Annexure P-4, which was almost to the same effect. The policy was again modified on 10.04.2015. However, in all these policies dated 30.05.2003, 23.12.2009 and then again on 10.04.2015, it was consistently held that the applications for appointment by transfer to other departments shall be forwarded with the express condition that in case their selection is made, no lien will be retained with the parent department and if they intend to go, they are to submit resignation from their posts.

This Court may have its own reservation with respect to grant of permission on transfer basis to the other departments but in view of the consistent policy as above, the present writ petitions are disposed of with a direction to the respondents to forward the names of all those who wish to apply against any vacancy so advertised or by circular issued by any department of the State of Haryana subject to the following conditions:-

- a) An undertaking shall be submitted that they shall not claim any lien with their respective parent department.
- b) They shall submit their resignation from their post in case they intend to join elsewhere in pursuance to their selection in the other department.

CWP No.3426 of 2019 and other connected cases

This Court further takes note of the fact that the word 'transfer' in that part of Clause II of the above policies dated 30.05.2003, 23.12.2009 and 10.04.2015 appears to be contradictory to the second part of Clause II where the employees are required to submit their resignation which actually amounts to a direct recruitment. Hence, it is advisable to revisit and examine the policy afresh so that the necessary anomaly in the said clause can be removed.

27.02.2020
sandeep

(NIRMALJIT KAUR)
JUDGE

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No