

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

108

CWP No.2374 of 2021
Date of Decision : 17.02.2021

Manjeet Kumar

.... Petitioner

Versus

State of Haryana and others

.... Respondents

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present: Mr.Sunil Kumar Goswami, Advocate for
Mr. Jasbir Mor, Advocate
for the petitioner.

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MEENAKSHI I. MEHTA, J. (ORAL)

By way of the instant petition, the petitioner has sought the indulgence of this Court for issuance of a writ in the nature of certiorari quashing the order dated 31.12.2020 whereby his representation dated 04.11.2020 for seeking his posting in Government Middle School No.4, Hisar, has been rejected. He has made a further prayer to quash the action of respondent No.2 in considering him for his posting as Clerk under the category “anywhere in Haryana State” instead of posting him against the vacant post, available as per the preference given by him and has also sought the issuance of a writ in the nature of mandamus directing the respondents to modify the posting order dated 16.10.2020 to the extent of posting him as Clerk in the above-said school as per his preference/option.

2. As per the brief factual-matrix as canvassed by the petitioner in this

petition, he had applied for the post of Clerk under the 'BCB' category in pursuance of the advertisement issued by respondent No.3-Haryana Staff Selection Commission (hereinafter referred to as 'HSSC') on 20.06.2019. He appeared in the written examination and cleared the same. He also appeared for the verification and scrutiny of the requisite documents on the scheduled date and his documents were found to be in perfect order. Then, HSSC asked the candidates to give preferences of the Department/Corporation for their allocation, by uploading their documents in the prescribed format and he submitted the same accordingly. Thereafter, he was selected for the said post vide the result declared by HSSC on 03.09.2020 and was allocated to the Education Department for being appointed as such.

3. The petitioner has, further, averred that the respondent-Department issued a notice seeking options for filling-up the posts (preference-wise) and he gave 11 options/preferences for being posted in Districts Hisar and Jind. However, vide appointment letter/order dated 16.10.2020, he was posted as Clerk in Government Middle School, Panna, District Sirsa under “anywhere in Haryana” category which is around 150 KMs away from his native place. Therefore, he preferred a representation dated 02.11.2020 for seeking the modification of the said order to the extent of his appointment and posting at Government Middle School No.4, Hisar as the post of Clerk was still lying vacant there but the respondent-Department did not do the needful as prayed for by him. Then, he moved another representation dated 04.11.2020 with the same prayer but in vain. Hence, he was constrained to approach this Court by way of filing CWP No.19200 of 2020 for the redressal of his afore-said grievance and

the same was disposed of vide order dated 11.11.2020 (Annexure P-17) with a direction to respondent No.2 to decide his said representation dated 04.11.2020 in accordance with law, within a period of four weeks. In compliance of the said order, respondent No.2 has decided his above-said representation vide the impugned order dated 31.12.2020, (Annexure P-18), while declining his aforementioned prayer in contravention of the prescribed policy.

4. I have heard learned counsel for the petitioner as well as Mr. Amit Aggarwal, DAG, Haryana, who has joined the proceedings in pursuance of the copy of this petition having been sent to the respondent-State in advance, at the preliminary stage and have also gone through the file.

5. Learned counsel for the petitioner contends that vide the impugned order Annexure P-18, the claim/prayer of the petitioner for his posting as Clerk in Government Middle School No.4, Hisar, has been rejected by respondent No.2 despite the facts that the vacancy of the post of Clerk is still available in the said school and the petitioner had also given option/preference for his posting in this school and therefore, the impugned order is illegal and is liable to be set-aside and the respondents should, rather, be directed to post the petitioner in the afore-said school as per his preference/option/prayer.

6. Per contra, learned State counsel argues that the petitioner is a fresh appointee and therefore, he cannot claim his posting at a particular place or in a particular school as a matter of right and respondent No.2 has rightly rejected his claim vide a speaking and detailed order, i.e Annexure P-18 and hence, this petition deserves dismissal.

7. Undisputedly, the petitioner had applied for and has been selected

for the post of Clerk in the State of Haryana. Though he was asked to give options and had, accordingly, opted for his posting in the schools in Districts Hisar and Jind but a perusal of the impugned order Annexure P-18 reveals that respondent No.2 has rejected his claim while specifically dealing with all the afore-discussed aspects and observing therein that the post of the petitioner, i.e Clerk, exists at the State level and the employees like the petitioner could be appointed anywhere in the State as they are the new appointees and the petitioner was posted at the school at Panna because the stations preferred by him, had been allotted to the persons higher in merit than him and this process has been conducted strictly in accordance with the Online Transfer Policy of Ministerial Staff as notified on 06.03.2020 and moreover, the seats in the schools, having student strength of less than 55, have been blocked by the Department so as to rationalise the utilisation of the manpower available with it by way of even distribution of the Clerks in the State as mandated in Clause 4 (iv) of the said Policy.

8. The petitioner has not been able to place any cogent material on the record to rebut the above-discussed observations as made by respondent No.2 in the impugned order. Even otherwise, it is well settled that an employee cannot claim his posting at a particular place as a matter of right because posting/transfer is an incidence of the service. To add to it, the Courts are supposed to go slow while interfering in the administrative decisions taken by the State qua the postings/transfers of its employees and such interference can be called for only in the exceptional eventualities when these decisions smack of malafides, perversity or grudge on the part of the competent authority.

9. As a sequel to the foregoing discussion, this Court is of the considered opinion that the present petition is devoid of any merit. Resultantly, the same, being sans any merit, stands dismissed.

17.02.2021
anju

(MEENAKSHI I. MEHTA)
JUDGE

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