
HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.5364 of 2020 (O&M)

Date of decision:14.07.2021

Smt. Prem Lata

...Petitioner

Versus

State of Haryana and others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Mr. Jasbir Mor, Advocate,
for the petitioner.

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

Mr. Ravi Verma, Advocate,
for respondent no.4.

(The proceedings were conducted through video
conferencing, as per instructions.)

G.S. Sandhawalia, J.

In the present writ petition filed under Articles 226/227 of the Constitution of India, the petitioner seeks quashing of the transfer order dated 19.02.2020 (Annexure P-7), whereby her earlier transfer order dated 07.02.2020 (Annexure P-6) was cancelled. The relief is claimed on the basis of the notification dated 15.09.2005 (Annexure P-4) and on the ground that she is senior to private respondent no.4 as a Class-I officer.

In fact, vide order dated 07.02.2020 (Annexure P-6), the petitioner had been posted as District Education Officer, Gurugram vice private respondent no.4 Smt. Indu Boken, while being transferred from the post of the District Elementary Education Officer and, thus, by virtue of the

impugned order dated 19.02.2020 (Annexure P-7), now the petitioner continues to remain posted as the District Elementary Education Officer, Gurugram instead of District Education Officer, Gurugram.

Counsel for the petitioner, while referring to the notification dated 15.09.2005 (Annexure P-4), has accordingly argued that at the District level, the officer-in-charge of the district is designated as the District Education Officer and the senior most Class-I officer of the school inspection cadre would man the posts of District Education Officer in the districts. It is further argued that the entire elementary education would come under the purview of the District Education Officer.

The defence of the State in its written statement are to the Haryana State Education (Group A) Service Rules, 1998 (hereinafter referred to as the “1998 Rules”) and that it is the prerogative of the Government to post the petitioner anywhere in the State and in having transferred her to the post of District Elementary Education Officer, Gurugram, there is no violation of any statute. Reliance is placed upon her earlier transfer record also, which would go on to show that she has been primarily posted at Gurugram and remained posted at Faridabad only for one day. It is further averred that the petitioner was promoted to the post of the Deputy Director at the State Council of Education & Training (SCERT), which is higher post.

One application bearing CM No.5139-CWP of 2021 has been filed by the State for clarification of the interim order dated 23.02.2021, whereby operation of impugned transfer order had been stayed. Reliance was also placed upon 1998 Rules to show that the Deputy Director, District

Education Officer, District Primary Education Officer, Principal District Institute of Education and Training and Programme Officer were equivalent and identical posts. It is submitted that the petitioner is working as District Elementary Education Officer under the Directorate of Elementary Education, Haryana, whereas private respondent no.4 is working as District Education Officer under the Directorate of Secondary Education, Haryana and both the posts are at par but separate and independent in nature.

Private respondent no.4 also filed her reply while taking the plea that the notification dated 15.09.2005 (Annexure P-4) is not applicable after implementation of the Right to Education Act, 2009, in the year 2011 in the State of Haryana. The functional integration of the Department of Primary Education and the Department of Secondary Education had been done and posts have been re-designated. The Directorates of Secondary Education and the Elementary Education were separate directorates but both the posts are equivalent posts. It is also averred that in Gurugram District, Smt. Santosh Tanwar, whose seniority is at no.189, is working as the Principal, DIET, Gurugram. The petitioner's seniority is at no.196 and private respondent no.4's seniority is at no.554, therefore, the petitioner could not, as such, claim herself as a senior most Class-I officer at the relevant time and, thus, could not seek her posting as the District Education Officer as a right. It is also specifically averred that by political influence, private respondent no.4's transfer had been effected on 07.02.2020 even though she had only been posted as the District Education Officer, Gurugram on 27.08.2019 and only worked for 5 months on the said post. The said fact had been brought to the

notice of the official respondents who had rectified their mistake by cancelling the order dated 07.02.2021 (Annexure P-6).

Mr. Sinhal, Senior Addl. A.G., Haryana, has also referred to the affidavit filed by the Deputy Director, Secondary Education, Haryana, to show that the notification in question cannot now be relied upon since both the petitioner and private respondent no.4 are working in two different directorates. Both the posts are at par, separate and independent in nature and there is no difference of the pensionary benefits and pay while being posted either as District Elementary Education Officer or the District Education Officer.

Keeping in view all these factors, this Court is of the opinion that the reliance upon the notification dated 15.09.2005 (Annexure P-4) is without any basis in view of the subsequent developments, whereby the two directorates have been separated. It is settled principle that for the government employees, there is no settled or preferential right of posting, which is apparently being sought by the petitioner by filing the present writ petition by way of seeking a writ of mandamus, directing the official respondents to transfer and post her at a particular place and post. Since the statutory Rules would be applicable to the petitioner, the reliance on the said notification is without any basis. Even otherwise, the conduct of the petitioner for effectively getting the prime posting(s) is apparent from her track record, which would go on to show that she mainly stayed at Gurugram from the year 1999 onwards when she was initially promoted as a Principal and has not been posted out of the said district.

The Division Bench of this Court, in the case of **Parveen Kumar vs. State of Punjab and others**, 2008(4) S.C.T. 596, has held that the guidelines laid down by the State for the transfer of its employees from one place to another are for the guidance of officers and are not enforceable for the purpose of assailing their transfer. The transfer of an employee is a normal feature and incidence of service which does not, in any manner, alter the conditions of his service and no Government servant can claim to remain at a particular post or a station of his choice.

In view of the aforesaid facts and circumstances, no case is made out to issue directions while exercising the extraordinary writ jurisdiction of this Court and, thus, the present writ petition is dismissed and, consequently, the interim order dated 23.02.2021 stands vacated.

July 14, 2021
vinod*

(G.S. Sandhawalia)
Judge

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No