

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.8051 of 2021
Date of Decision: 09.04.2021

Sandeep Kumar & Ors.

...Petitioners

Versus

State of Punjab & Ors.

...Respondents

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

Present: Mr. Pankaj Garg, Advocate,
for the petitioners.

Ms. Anju Sharma Kaushik, DAG, Punjab.

MEENAKSHI I. MEHTA, J. (ORAL)

The petitioners have joined hands to prefer the instant petition for seeking the indulgence of this Court for the issuance of a writ in the nature of certiorari quashing the notification dated 18.05.2020 (Annexure P-6) whereby the teachers, who were recruited as Masters in Category 3582 in the year 2018 and had opted for their posting in the schools at the places not falling under the category of Border Districts/Areas, have been declared as ineligible to seek their transfer in pursuance of the Transfer Policy notified by the respondents on 25.06.2019 (Annexure P-5) and they have also prayed for the issuance of a writ in the nature of mandamus directing the respondents to consider them to be eligible for participating in the Transfer Drive.

2. Bereft of unnecessary details, the averments as canvassed by the

petitioners in the petition in hand, are that they were recruited as the Masters in Category 3582, in the year 2018 and they had opted for their posting in the schools located in the area near their respective native places and not falling in the Border Districts/Area. Transfer Policy Annexure P-5 provides that for a newly recruited teacher seeking transfer, the minimum period of stay in a school is three years or the probation period whichever is earlier. However, vide the impugned Circular/notification Annexure P-6, the newly recruited teachers, who had opted for their posting in the schools located in the Border Area, are being considered to be eligible to participate in the Transfer Drive even before the completion of the period of three years at the present places of their posting, which is discriminatory, arbitrary and illegal as well.

3. Ms. Anju Sharma Kaushik, D.A.G, Punjab, has joined the proceedings in this case on behalf of all the respondents, in pursuance of the copies of this petition having been sent to the respondent-State in advance.

4. I have heard learned counsel for the petitioners as well as learned State counsel in the present petition, at the preliminary stage and have also perused the file thoroughly.

5. Learned counsel for the petitioners contends that the concession, as granted to the teachers recruited along-with the petitioners and presently posted in the schools located in the Border Area, to participate in the Transfer Drive before the completion of the prescribed period of three years at the present respective places of their posting, is discriminatory and he has also

referred to Annexure P-7 and has pointed out that one employee named Amanpreet Kaur, who is presently posted in the Non-Border Area, has also been allowed to fill up the places of her choice for her transfer and it being so, the petitioners are also entitled to the same benefit.

6. Per contra, learned State counsel argues that the petitioners did not opt for their posting in the schools located in the Border Area and therefore, the grant of the afore-discussed concession/benefit to the teachers, who opted for their posting in the schools situated in the Border Area, cannot be construed to be discriminatory on the part of the respondents vis-a-vis the petitioners and moreover, said Amanpreet Kaur has uploaded the particulars as mentioned in Annexure P-7 on her own and the same are to be checked and verified by the competent authority before the consideration thereof for the transfer drive and even otherwise, the particulars as furnished by her in this document, are not correct and rather, she has misrepresented the date of her posting therein.

7. The State/Government, being the employer, is well within its rights to frame any policy for providing guidelines and the uniform pattern so as to maintain the transparency while effecting the transfers of its employees. It has been explicitly mentioned in para 2.0 of the impugned Circular/notification (Annexure P-6) itself that:-

“.....Department had made certain recruitment of teachers of 3582 category of teachers. 75% of them have been posted in the border districts. As per the existing policy i.e para 8(iv) no

teacher can be transferred unless he or she completes probation period. Department has already issued an advertisement for the border areas and these newly recruited teachers will be posted against post occupied by teachers of 3582 category of teachers. This issue was discussed by the Council of Ministers in its meeting held on 2.5.2020 also. It is thereafter decided that as 3582 category of teachers are yet to complete their probation period, therefore, the teachers out of 3582 category of teachers and posted in the Border districts may be allowed to exercise one time option seeking transfer under the Transfer Policy.....”.

8. The above-said facts sufficiently, plausibly and justifiably explain the reason for considering those teachers of Category 3582, who are posted in the Border Districts, as eligible for exercising one time option in the Transfer Drive before the completion of the prescribed/probation period as the said decision has been taken so as to post the teachers, who are to be recruited for such areas in pursuance of the said advertisement, on the posts presently occupied by them. It being so, the impugned notification/ Circular Annexure P-6 can, by no stretch of imagination, be construed to be discriminatory vis-a-vis the petitioners.

9. As regards the factum of the name of Amanpreet Kaur having been reflected in Annexure P-7, learned State counsel, as discussed earlier, has candidly explained that this information has been uploaded on the portal by her only and the same is yet to be checked and verified by the competent authority before acting upon the same.

10. As a sequel to the foregoing discussion, it follows that this petition, being *sans* any merit, deserves to be dismissed. Resultantly, the same stands dismissed accordingly.

09.04.2021

monika/ seema

(MEENAKSHI I. MEHTA)
JUDGE

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