

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

**CWP-7743-2020 (O&M)
Date of Decision : 17.03.2021**

Jujhar Singh & Ors.
.....Petitioners

Vs.

State of Punjab and Others
.....Respondents

With **CWP-9086-2020 (O&M)**

Amandeep Singh & Ors.
.....Petitioners

Vs.

State of Punjab and Others
.....Respondents

With **CWP-9458-2020 (O&M)**

Diksha Garg & Ors.
.....Petitioners

Vs.

State of Punjab and Others
.....Respondents

With **CWP-16334-2020 (O&M)**

Manjit Kaur
.....Petitioner

Vs.

State of Punjab and Others
.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. H.C. Arora, Advocate and
Ms. Sunaina, Advocate
for the petitioners in CWP No. 7743 of 2020.

Mr. Parvesh Saini, Advocate
For petitioners in CWP No. 9086 of 2020.

Mr. Shailender Sharma, Advocate
For petitioners in CWP No. 9458 of 2020.

Mr. P.S. Rai, Advocate
For petitioner in CWP No. 16334 of 2020.

Ms. Sunint Kaur, Asst. AG Punjab.

ARUN MONGA, J. (ORAL)

1. Facts being somewhat similar, instant single order being passed in CWP No. 7743 of 2020 shall dispose of above titled bunch of petitions.

2. Grievance of the petitioners, serving as Teachers on probation, is qua transfer notification dated 18.05.2020(Annexure P-6), whereby special consideration has been given to the Teachers serving on probation in the schools falling under borders area in Punjab, entitling them to apply online for their transfer as per transfer policy dated 25.06.2019(Annexure P-5), while the ones not serving in border have not been given the option to apply online for their transfer.

3. Learned counsel for the petitioners have steadfastly argue that this special consideration is highly discriminatory. It creates heart-burn amongst similarly situated Teachers, who are all selected through the same recruitment process. All of them are currently stated to be on probation. They rely on the transfer policy to stress on the point that every probationer is entitled to seek transfer on completion of his/ her probation i.e. on completion of 3 years with

effect from date of initial appointment. They submit that initially options were sought from all the candidates across board in State of Punjab and at that time there was no such policy and/ or notification. It was even otherwise not brought to the knowledge of the candidates that those posted in border areas would become eligible after two years and shall be given special consideration to apply online to seek their transfer as per policy, *ibid*.

4. Learned counsel for the petitioners further submit that as a bolt from blue, vide impugned notification dated 18.05.2020, those Teachers posted on the border areas have suddenly been given option for online transfer, while the petitioners who are posted at non-border areas have not been permitted to do so. Hence the petition.

5. Learned State counsel strongly resists the writ petitions and argues on the lines of defence taken in the return filed in response to the writ petitions.

6. Having heard the rival contentions of learned counsel, I am of the view that what is challenged herein is merely negation of an alleged right, to apply for on-line transfer, on the ground that petitioners are not posted in border areas. At the very threshold, one would think that transfer being an integral part of service conditions, arising out of administrative exigency, it is the discretion and prerogative of the employer to transfer its employee from time to time. Even a regular employee has no vested right to continue at a particular place and/ or seek transfer to a place of his choice and, therefore, to expect a probationer to seek enforcement of such a right would perhaps be against the very basic principles of service jurisprudence.

7. In any case, during pendency of the writ petitions, the petitioners, who are probationers have already completed 2 years and 10 months and, they are only two months away to become eligible as per transfer policy to apply for their online transfers, in case they so wish to apply.

8. Even otherwise, I find no fault with the approach adopted by the State in giving preferential treatment to its employees who are posted at border areas. The same may though seem discriminatory, but it certainly is based on reasonable classification. One can well understand that there indeed have been disturbances in certain border areas and, therefore, employees posted there do require special protection/ relaxation.

9. In the premise, I am of the view that impugned notification is based on intelligible differentia and no interference is called for. However, taking an equitable view, this Court expects that, in case it is so possible, the State would put the implementation of the transfers on hold for another two months. Since online transfer options were being received as late as in the first week of March, 2021 and pursuant thereto the transfers are yet to be effected, in another two months the petitioners will also be eligible to avail the option of online transfer, on completion of their probation. In fact, pursuant to an earlier order dated 12.06.2020 passed by this Court, the petitioners were provisionally permitted to submit their options online. Be that as it may, it is left open to the respondents to take into consideration their provisional options after expiry of another two months, depending upon administrative exigencies, in order to avoid any further needless litigation.

9. Writ petitions are disposed of in above terms.

MARCH 17, 2021

Jiten

(ARUN MONGA)

JUDGE

Whether speaking/non-speaking:

Whether reportable: Yes/No