

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

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**CWP No.9847 of 2021
Decided on : 28.06.2021**

Nadar Singh

... Petitioner

Versus

State of Haryana and others

... Respondents

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

Present: Mr. Mohd. Arshad, Advocate
for the petitioner.

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

G.S. Sandhawalia, J. (Oral)

The petitioner in the present writ petition filed under Articles 226/227 of the Constitution of India seeks directions for issuance of a writ in the nature of mandamus directing the respondents to consider his case under Mewat Cadre by treating the service rendered by him from the date of his appointment i.e. 06.02.1988. The claim is made on the basis of the Mewat District School Education (Group B) Service Rules, 2012 (for short 'Rules 2012').

It is the case of the petitioner that he was initially appointed as JBT on ad hoc basis and had been allotted Primary School Reethat Block, Nagina. Thereafter, he had been transferred from place to place, details of which are given in paragraph No.9.

Apparently the petitioner has also served in other districts like Palwal. It has been averred that the petitioner is now serving as a PGT (Hindi) at Government High School, Pelak, District Palwal.

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Counsel has submits that he has given a representation dated 01.09.2020 (Annexure P-4) that since he is residing in District Mewat alongwith his family and two separate cadres have been made, he is entitled to be absorbed in the Mewat Cadre for which there is a separate seniority list.

It is his case that after coming into force of the Policy 2012, he has approached the respondent-department, but his claim has not been considered.

A perusal of the Rule 3 of the Rules 2012 would go on to show that the right to exercise the option of district is to be within three months from the notification of these rules. Relevant rule reads as under:-

“3.(1) The Service shall comprise of the posts shown in Appendix-A to these rules:

Provided that nothing in these rules shall affect the inherent right of Government to make additions to or reductions in the number of such posts or to create new posts with different designations and scales of pay, either permanently or temporarily.

(2) Members of the existing state cadre under the Haryana State Education (School and Inspection) Cadre (Group B) Service and the Haryana State Education Lecturer School Cadre (Group C) Service would automatically become member of this District Cadre Service after the notification of these Rules:

Provided that the existing members of the Haryana State Education (School and Inspection) Cadre (Group B) Service and the Haryana State Education Lecturer School Cadre (Group C) Service who are members of the State Service shall have the right to exercise the option of district within three months from the notification of these rules for joining the Mewat District School Education (Group B) Service:

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Provided further that while exercising option, principle of seniority will be the deciding factor keeping in view the number of posts in the district in the relevant cadre.

Provided further that the option once exercise shall be final.”

In view of the admission itself as such made in paragraph No.13 of the petition that there was an oral submission, it is apparent that no exercise for option was made within three months from the notification of the rules. Therefore, no case is made out for directing the respondents to decide the representation of the petitioner.

It is the settled principle that a writ of mandamus can only be issued if the respondent has not acted upon the representation of the petitioner. Once the petitioner himself has admitted that he had not opted for said option, no case is made out in the facts and circumstances.

Accordingly, the present writ petition is dismissed in limine.

June 28, 2021

Naveen

**(G.S. SANDHAWALIA)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No