

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

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CWP-15323-2021

Suman Rana

... Petitioner

Versus

State of Haryana and others

... Respondents

(2)

CWP-14937-2021

Renu Bala Punia and others

... Petitioners

Versus

State of Haryana and others

... Respondents

Decided on : 26.08.2021

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

Present: Mr. S.K. Garg Narwana, Senior Advocate with
Mr. Vishal Garg Narwana, Advocate for the petitioner (s)
in CWP-15323-2021.

Mr. Devender Punia, Advocate for the petitioner (s)
in CWP-14937-2021.

Ms. Rajni Gupta, Addl. AG, Haryana.

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

G.S. Sandhawalia, J. (Oral)

The present order shall dispose of two petitions i.e. CWP
Nos.15323 and 14937 of 2021 as common question of law and facts are
involved.

The petitioners in the present writ petition filed under Articles
226/227 of the Constitution of India challenge the list of deemed vacancies
and list of teachers deemed to be transferred, vide which the petitioners

have been directed to participate in the online transfer drive.

The petitioners herein are posted in Government Model Sanskriti Senior Secondary School (GMSSSS). Three petitioners in one petition and fourth one in the other, all are posted at GMSSSS, Sector-20, Panchkula, since the year 2007 and 2014, respectively.

Senior Counsel has vehemently argued that on an earlier occasion the vide the transfer policy dated 29.06.2016 (Annexure P-3), they were kept out of the purview of the transfer drive, as per Clause 2 (iv). It is submitted that as per the amended Teachers Transfer Policy as amended on 01.06.2017, the teachers working in the Model Sanskriti Schools were put in non-core posts. It is submitted that therefore, they were not liable to be considered for transfer, as per the decision of the Government themselves.

As per the reply filed in CWP No.14937 of 2021, the defence of the State on the other hand is that as per Clause 3 (iii) (b) proviso the competent authority can pass a specify order which of the core posts and non-core posts will be included when the transfer drive is contemplated. It is submitted that in pursuance of the said power, the order dated 09.06.2021 (Annexure R-2) has been passed, wherein a decision has been taken regarding the teachers working in the GMSSSS, subject to certain conditions. The same reads as under:-

“There is a provision in the Online Teacher Transfer Policy-2016 that “The teaching post of Sarthak School, Govt. Model Sanskriti Schools, and Aarohi Model Schools will be kept out of the purview of the this policy, as these posts are to be filled

up through a special selection process to provide teaching faculty of higher caliber and competence to teach in an English medium”, therefore, the posts of teaching faculty in these schools are treated as “Non-Core” posts.

The Principals and teaching faculty who have been deployed/posted after screening process, in these Government Model Sanskriti Senior Secondary Schools (GMSSSS) are the part of Non-Core posts. Therefore, they are not covered under on-line teacher transfer drive. However, if any Principal/teaching faculty has completed minimum 3 years stay in GMSSSS and not willing to work in GMSSSS, he/she may be allowed to participate in the on-line teacher transfer drive.

However, the Principal/teaching faculty who are presently posted in the GMSSSS without undergoing screening process and have completed 5 years stay in these schools at the time of operation of online teacher transfer drive will have to compulsorily participate in the online teacher transfer drive.”

Keeping in view the fact that the petitioners have stayed over 5 years, they are liable to be transferred and the posts are liable to be treated as 'Deemed Vacancies', so that other persons can also apply against the same. In the reply filed in CWP No.14937 of 2021, it has further been stated that the petitioners had not undergone the screening process and, therefore, in view of the fact that they have spent more than 5 years, they are liable to participate in the transfer drive.

This Court is in agreement with the stand taken. The petitioners have no absolute right to be remained posted in certain set of schools and have completed more than 7 years in one case and 14 years in the other case and, therefore, as per settled principle they have not

absolute right to stay at a particular place. It is a part of their duty towards the State to serve the State as and where it chooses to utilize their services. In the absence of any malafides, the jurisdiction of this Court is limited to interfere in the transfer drive, which is now taking place.

The respondents have taken a categorical decision treated the said posts as non-core posts and to be included in the transfer drive, subject to certain conditions. The said conditions do not seem to be discriminatory or onerous in any manner and rather open up the said posts for other teachers, who are equally well placed and qualified.

Accordingly, there is no merit in the present writ petitions and the same are dismissed.

August 26, 2021
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No