

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

130

**CWP No.19871 of 2021
Decided on: 30.09.2021**

Harish Kumar

... Petitioner

Versus

State of Haryana and others

... Respondents

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

Present: Mr. J.L. Goyal, 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 Article 226 of the Constitution of India seeks quashing of the impugned order (Annexure P-10), whereby he has been shown as mandatorily eligible for transfer and been forced to participate in the online teachers transfer drive.

The claim is being sought on the ground that the petitioner has not completed 5 years in the current school and at present is in Zone-5 and, therefore, having stayed only for three years at Government Middle School, Kishangarh, District Kurukshetra having been posted on 22.06.2018 (Annexure P-4), is not liable to be transferred. It is further contended that in similar circumstances on account of mutual transfer, this Court had granted stay.

This Court in similar circumstances in **CWP No.15984 of 2021 'Inderjeet Pahwa Vs. State of Haryana and another'** decided on 09.09.2021 had dismissed the writ petition by noticing the fact that the employee as such was posted around Ambala and Kurukshetra since 1999

onwards.

In such circumstances, this Court is of the opinion that the matter is squarely covered as per the orders passed in the case of **Inderjeet Pahwa (supra)**. The order passed in the said case reads as under:-

“The petitioner in the present writ petition filed under Article 226 of the Constitution of India seek directions for quashing the action of the respondents in not giving the option Yes/No on the MIS portal, on the ground that he has only completed 2 years at Government Senior Secondary School, Balahi, District Kurukshetra. The said action is stated to be in violation of the Teachers Transfer Policy dated 29.06.2016 (Annexure P-1).

It is the case of the petitioner that he was only posted on 22.08.2019 (Annexure P-4/A) to the said post and therefore, he is not entitled to take part in the Teachers Transfer Drive, which is as such put in vogue, as per the schedule fixed by the Government on 15.07.2021 (Annexure P-9).

In the reply filed by the respondents it has been stated that the petitioner has been working in Zone-7 and has completed 18 years therein and, therefore, the persons who have completed 5 years in a particular zone are liable to compulsorily participate in the drive as per Para 8 Clause (i) b (i) read with Para 9 (iv). The details of his posting around Ambala and Kurukshetra have been given that he has been working from 1999 onwards in the said area. Initially he was posted at Ambala in Zone-5 then he was transferred to Karnal in the year 2000 in Zone-7 and, thereafter, to the Government Senior Secondary School, Amin, Kurukshetra in the year 2004 in Zone-7. Thereafter, he is remained at Government High School, Bhore Saidan, Kurukshetra from 06.08.2016 which was in Zone-4 and then he was transferred to Balahi. The relevant Clause of the policy reads as under:-

“Involuntary deemed vacancy: A post of any cadre (whether teaching or non-teaching), held by a teacher previously or presently in the School Education Department in a regular capacity for a period of five years or more on the qualifying date in the present zone of posting; or

A post occupied by a teacher given temporary manual posting due to non-availability of online transfer drive or technical problems or compulsion of administrative or litigational nature or on new appointment or on promotion or otherwise.”

It has further been stated that in Para 9 (iv) of the Teachers Transfer Policy, which reads as under:-

“Para 9 (iv) (Teachers Transfer Policy):-

Normally an employee has a service career of 35 years, so a teacher is supposed to serve a zone for maximum 5 years during his service career. In case of Zone-1, Zone-2, Zone-3 and Zone-4, if a teacher has completed five years of stay then such zone shall not be made available to him giving option of stations whether in online transfer drive or offline manual/temporary allocation. But in case of Zone-5, Zone-6 and Zone-7 the stations shall be made available to the teachers regardless of their stay in these zones as these three zones comprise of rural as well as far-off areas from urban centres.”

Similarly, Clause 6 reads as under:-

“6. Basic Principles:

The option once availed and confirmed shall be final and can be changed only under the provisions of this policy. Unless protected under a provision of this policy, every teacher completing 5 years stay/tenure in a particular school/zone of any district (s), whether independently in a district or cumulatively of more than one district, of the State shall be transferred.”

Keeping in view the above stand, this Court is of the considered opinion that in the absence of any malafides or

CWP No.19871 of 2021

arbitrariness as such on the part of the respondents, there is no reason for this Court to interfere in the transfer drive. This Court would not exercise its extra-ordinary writ jurisdiction if the respondents are acting within the parameters of the policy.

Resultantly, there is no merit in the present writ petition and the same is dismissed.”

In the present case if one is to look at service profile (Annexure P-1) of the petitioner, the same would go on to show that he was posted as PRT/JBT in the year 1997 in Kurukshetra and has successfully stayed since then in various zones in District Kurukshetra only, whether it is Zone-6 or Zone-5 for the last almost 25 years.

Accordingly, the present writ petition is also dismissed for the reasons given in the case of **Inderjeet Pahwa (supra)**.

September 30, 2021
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No