

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

CWP No. 7830 of 2022

DATE OF DECISION: 19.04.2022

Sumita

...Petitioner

versus

State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Neeraj Kumar, Advocate,
for the petitioner.

Mr. Sharan Sethi, Addl. AG, Haryana.

ARUN MONGA, J. (ORAL)

Petitioner herein, *inter-alia*, seeks a mandamus directing respondents to modify their new transfer policy dated 08.02.2022 (Annexure P-10), so as to award additional 10 marks to the petitioner, because her husband is 100% handicapped. Reliance is placed on “The persons with Disabilities (Equal Opportunities, Protection of Right and Full Participation) Amendment Rules, 2009”.

2. In the earlier transfer policy as relied upon by learned counsel, there was a clause that in case spouse of a serving employee suffers from any disability or Debilitating disorder, which results in extreme hardship owing to the relocation on account of transfer, then the said mitigating factor shall be duly taken into consideration and in the objective criteria adopted to carry out the transfer drive, 10 marks will be awarded in addition to what is

otherwise entitled to an employee. The said 10 marks clause has now been done away in the new policy and hence the instant petition.

3. Learned counsel for the petitioner further contends that husband of the petitioner is 100% disabled having served in armed forces. He contends that as per earlier policy, if the petitioner is awarded additional 10 marks her score comes to 57.0787 as against 47.0787 awarded to her and in terms thereof, she would be most likely to be transferred within a short distance from her current place of posting i.e.Jhajjar.

4. Learned counsel further contends that vide impugned new policy dated 08.02.2022 (Annexure P-10), earlier benevolent clause of awarding additional 10 marks qua disability of spouse has been now inequitably deleted and thus seeks issuance of mandamus from this Court directing the respondents to either amend the new policy or quash the same with a prayer to restore the earlier policy.

5. Having heard rival contentions of learned counsels for the parties, I am of the view that making of policies or not is exclusively out of the domain of this Court ought not or should not interfere in the same by superimposing its own views. In the larger interest of the employees working for the State of Haryana, a new transfer policy has now been framed to maintain certain transparency in the transfer orders arising out of day-to-day administrative exigencies. On the other hand, strictly speaking State is not bound to notify any transfer policy under law but yet in the true spirit of transparency, which is laudable, the transfer criteria has been published.

6. At the same time, it would not be out of place to observe that in a given case, the competent authority is well within its powers to take mitigating circumstances into consideration and is free to have a sympathetic outlook, while considering the request of an employee.

7. Accordingly, the instant writ petition is disposed of with liberty to the petitioner to pursue her representation with the competent authority. It is expected of the competent authority to look into the representation of the petitioner and if upon verification of the claim qua disability of her spouse, if deemed appropriate, fresh orders may be passed.

8. Disposed of accordingly.

APRIL 19, 2022
Shalini

(ARUN MONGA)
JUDGE

Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No