

**CM-2758-CWP-2022 in/and**  
**CWP-13810-2021 (O&M) along with other connected cases** 1

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

**Sr. No.140+264**

**Date of Decision: 12.07.2022**

**1) CM-2758-CWP-2022 in/and**  
**CWP-13810-2021 (O&M)**

Mohit and others .... Petitioners

Versus

State of Haryana and others ... Respondents

**2) CWP-9163-2021 (O&M)**

Reetu and others .... Petitioners

Versus

State of Haryana and others ... Respondents

**3) CWP-10010-2021**

Deepak and others .... Petitioners

Versus

State of Haryana and others ... Respondents

**4) CWP-10370-2021**

Shri Bhagwan and others .... Petitioners

Versus

State of Haryana and others ... Respondents

**5) CWP-15468-2021 (O&M)**

Krishan Kumar and others .... Petitioners

Versus

State of Haryana and others ... Respondents

**CM-2758-CWP-2022 in/and**  
**CWP-13810-2021 (O&M) along with other connected cases** 2

**6) CWP-15544-2021**

Anju .... Petitioner  
Versus

State of Haryana ... Respondent

**7) CWP-9201-2021**

Rajesh Kumar and others .... Petitioners  
Versus

State of Haryana and others ... Respondents

**8) CWP-11116-2021 (O&M)**

Hanuman and others .... Petitioners  
Versus

State of Haryana ... Respondent

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Sajjan Singh, Advocate  
for the petitioners in CWP-13810-2021.

Mr. Kanwal Goyal, Advocate,  
Mr. Govind Tanwar, Advocate and  
Mr. Paramjit Singh, Advocate  
for the petitioners in CWP Nos.15544, 9163, 10010, 10370  
and 9201 of 2021.

Mr. S.S.Mann, Addl. A.G.Haryana.  
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**HARSIMRAN SINGH SETHI, J. (ORAL)**

By this common order, the writ petitions, details of which have  
been given in the heading, are being disposed of as all the writ petitions  
involve the same question of law based on similar facts.

The challenge in the present petitions is to the transfers which  
have been effected for the session 2020-21.

Learned counsels for the petitioners argue that the challenge of the petitioners in the present petitions is that the respondent-State has not implemented the transfer policy as it should have been done and the transfers have been effected in a manner which has caused prejudice to large number of employees including petitioners. Learned counsel for the petitioners submits that vacant posts in certain schools were blocked by the State at the time when the transfer of the petitioners were effected, which restricted the options of the petitioners to opt for a more favorable station, which act of the respondents caused prejudice to the petitioners.

Learned counsels further submit that schools which were initially blocked by the respondents at the time of seeking options from the petitioners under the transfer policy, were later on declared open for the employees who were directly recruited thereafter which has further caused prejudice to the petitioners as the petitioners were not only debarred from exercising their options for transfer for those stations but now can not opt for transfer for a minimum period of three years to the stations which were opened for direct recruits to their prejudice and will have to serve on a station, which have been allotted to them while effecting transfers.

Learned counsel for the respondents submits that the blocking of certain posts in schools were done on the basis of strength of students enrolled in a particular school, so as to avoid disproportionate concentration of employees at a station with less work load, so that the stations with over work load could get necessary staff. Learned State counsel further submits that the freshly recruited clerks were given appointment against the vacant posts much after effecting the impugned transfers, hence, petitioners can not

raise any grievance on the said action of the respondents.

Learned counsel for the respondent-State further submits that all the efforts were made to accommodate the employees to the place of posting which they have opted but under the circumstances, it is difficult to post all the employees against the opted post only, hence, it can not be said that transfer policy was not given effect in a manner required.

Learned counsel for the petitioners submits that though, much water has flown after the transfer of the petitioners as newly recruited clerks have already joined against the blocked posts in the meantime but still the grievance of the petitioners can be redressed by the respondent-State keeping in view the provision of Clause 6 of the transfer policy, according to which, even after effecting the transfers, where certain posts are lying vacant, the employees can be given posting, in case they have not been accommodated at the place opted for by them.

Learned counsel submits that the petitioners will be satisfied at this stage, in case their claim against the posts which are lying vacant as of now, which can be filled easily as per the provisions of the transfer policy is considered.

Learned State counsel very fairly submits that in case, the petitioners make any representation giving the details of a station which they want to opt for and is available under the policy for posting, the said representation will be considered sympathetically in accordance with law as well as the policy concerned and the appropriate order on the representation of the petitioners will be passed within a period of 4 weeks of the submission of the said representation.

Learned counsel for the petitioners submits that the petitioners will file representation within a period of one week from today and till the decision, the petitioners be allowed to continue at the stations where they are already posted keeping in view the interim orders already passed in their favour, so that they may not have to move twice from their station, which will cause further prejudice to them in the event the prayer of the petitioners to be made in the aforesaid representations is accepted.

Learned counsel for the respondents submits that in case the petitioners give an undertaking before the State that in case the representation is not accepted and it is not feasible to post the petitioners on the posts being opted by them in their representations, then after passing of the order on their representations, the petitioners will join the posts where they have already been posted as per the orders impugned in their petitions.

The said proposal is acceptable to the petitioners with a condition that in case the petitioners have any legal right to claim transfer against any vacant post in accordance with the policy, even after passing of the order on their representation, they be given liberty to exercise the said legal right by approaching appropriate authority/forum.

Keeping in view the above, the present petitions are disposed of in the agreed terms that the petitioners will file representation within a period of 7 days from today i.e. upto 18<sup>th</sup> of July, 2022 giving their options for transfer to the posts which are still lying vacant. The State is directed to decide the said representations in accordance with law coupled with the provisions of the policy with a sympathetic consideration so as to avoid any further litigation and to streamline the functioning of the schools concerned,

within a period of 4 weeks thereafter.

It is made clear that till the decision of the representation, the petitioners will be allowed to serve at the places where they are actually working now and in case, their representation is accepted and they are posted in a school which they have opted in the representation, they will join the same, otherwise, the petitioners will join schools where they have already been transferred by the respondents in the orders impugned in their petitions, which fact would be made clear by the respondents while deciding their representation. It is also made clear that a particular petitioner can not opt for more than three schools in his representation and in case, any of the petitioners opt for the same posting, the length of the service should be taken into consideration while deciding their claim with regard to the option.

Civil miscellaneous applications No.CM-2758-CWP-2022 and CM-11671-CWP-2021 in CWP No.13810 of 2021, CM-13046-CWP-2021 in CWP-9163-2021, CM-16284-CWP-2021 in CWP-15468-2021 and CM-5074-CWP-2022 in CWP-11116-2021 also stand disposed of.

A photocopy of this order be placed on the connected files.

**(HARSIMRAN SINGH SETHI)**  
**JUDGE**

12.07.2022  
Maninder

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