

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

(202)

CWP-15219-2020

Date of Decision : August 23, 2022

Promila Devi

.. Petitioner

Versus

State of Haryana and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ketan Antil, Advocate, for the petitioner.

Mr. R.S. Budhwar, Addl. A.G., Haryana.

Mr. Mayank Aggarwal, Advocate, for respondent No.3.

HARSIMRAN SINGH SETHI J. (ORAL)

In the present petition, the grievance of the petitioner is that the petitioner has been posted at a place which was though an option but not the first preference whereas, respondent No.3, who is junior to the petitioner has been given a place of posting which was opted by the petitioner after her promotion as High School Headmaster.

As per the facts mentioned in the petition, the petitioner, who was working as Elementary School Headmaster (ESHM)/TGT, was eligible for promotion to the post of Headmaster on the basis of her seniority. The claim of the petitioner was considered along with the others and vide order dated 21.07.2020 (Annexure P-1), 298 ESHM were promoted to the post of Headmaster. As per clause 7 of the said order, the posting of these officers

were to be done on the basis of counseling and the seniority of an employee was to be taken into consideration. After the said promotion order, the promoted employees were given option to opt for the station and the petitioner opted for Government Girls High School Raipur, District Sonipat as well as Government High School Seikhpura Khasa, Karnal. The respondents, after counseling, posted the petitioner at Government High School Seikhpura Khasa, Karnal whereas respondent No. 3 was posted at Government Girls High School Raipur, District Sonipat, which action of the Government has been challenged by the petitioner on the ground that the petitioner being senior to respondent No.3 should have been given a station where respondent No.3 has been posted as the petitioner had also opted for the same.

After notice of motion, the respondents have filed the reply wherein, the respondents have stated that in order to avoid any prejudice, the point system, which has been evolved for effecting the transfers, was put in operation in the present case also and the candidate, who secured higher marks in the said point system, the stations were allotted as per the choices given by the candidate keeping in view the marks secured by them. As per the respondents, respondent No.3 had secured 74.027 marks whereas the petitioner secured 65.813 marks and therefore, the petitioner was posted in Karnal as per one of his option and respondent No. 3 was posted in Sonipat after their promotion as Headmaster.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

The only question which arise is whether, the petitioner can claim the posting on the basis of the seniority by relying upon clause 7 of

the promotion order or the said clause is only a guideline to be followed for posting the employees who have been promoted to the post of High School Headmaster. Posting of an employee is within the domain of an employer. The employer has to see various administrative exigencies so as to post an employee at a particular station. The right to claim posting at a particular station does not exist with the employee and therefore, no posting either at the time of general transfer or even on promotion, can be claimed as a matter of right.

The argument of the learned counsel for the petitioner is that clause 7 gives the petitioner right to claim posting as per the preferences given by her. The clause 7 is only a guideline to be followed which includes the seniority as one of the ingredient of a candidate. The relevant clause 7 being relied by the petitioner is reproduced as under:-

“7. The place of posting of these officials will be allotted on the basis of counseling as per seniority and will be intimated regarding counseling shortly.”

A bare perusal of the above would show that the stations are to be allotted on the basis of counseling and the seniority is to be kept in mind. There is no restriction that apart from seniority, other aspect of the services cannot be taken into account. The said clause is not exhaustive and is only a guideline and the same does not give a right to an employee to claim posting at a particular station only on the basis of seniority. The guidelines are not justiciable.

Further, in the present case, the criteria which has been followed by the respondents cannot be faulted with, as along with the seniority, the other facts have also been taken into account by the

department for deciding the posting of a newly promoted High School Headmaster. The point system which is available for effecting the general transfer has been made applicable which also includes seniority of the candidate, which action of the respondents, according to this Court, is a transparent method to effect transfer.

Further, it is noted that though the petitioner has not been given the station which was her first preference, however, the Government High Schook Seikhpura Khasa Karnal, where the petitioner was posted, is also given as one of her preference. That being so, no inference is called for by this Court in the present petition.

The present petition is dismissed accordingly.

August 23, 2022
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No