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

CWP-20552-2017

Date of decision 17.11.2022

RAJESH KUMAR

...Petitioner

V/S

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Jawahar Lal Goyal, Advocate &
Mr. Parth Goyal, Advocate
for the petitioner.

Mr. Rajesh Gaur, Addl. A.G., Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

In the present petition, the grievance of the petitioner is that the petitioner was found eligible for intra district transfer and was extended the said benefit, but later on, the said benefit was withdrawn on the ground that the petitioner did not complete the requisite formalities for availing the said benefit. Even the representation filed by the petitioner for restoration of the benefit of intra district transfer, was rejected by the competent authority on 04.07.2017, which order is under challenge in the present petition.

As per the facts mentioned in the present petition, the petitioner joined as a JBT teacher with the respondent-education department on 06.01.2011 and was posted in District Sonapat. The JBT cadre is a district level cadre and an employee can only be transferred within the district and not outside.

The respondents in order to effect intra district transfers invited options from the JBT teachers working in the State of Haryana vide Transfer Policy dated 08.08.2015 and the last date for submission of the application

form after completing the requisite formalities was 15.09.2015. Petitioner submitted the option of the change of the district from district Sonapat to District Jhajjar on the ground that the petitioner was suffering from a chronic disease and was entitled for the benefit of the change of district under the policy concerned.

The request of the petitioner was accepted and the petitioner was transferred from district Sonapat to District Jhajjar vide order dated 17.09.2016. Petitioner was relieved from District Sonapat and accordingly, the petitioner joined in district Jhajjar on 22.09.2016.

Immediately, upon rejoining, the petitioner came to know that the order dated 17.09.2016 has been cancelled by the respondent on the ground that the petitioner failed to fulfill the requisites to be completed for the change of district, as the medical certificate provided by the petitioner was from the Civil Surgeon, whereas, according to the intra district transfer policy, the same was required to be issued by the Post Graduate Medical Institute, Rohtak.

The order cancelling the transfer was challenged by the petitioner by filing CWP-21050-2016, which writ petition was disposed of by this Court by issuing direction to the respondent-education department to decide the representation filed by the petitioner wherein, the petitioner had raised objection to the cancellation of his intra district transfer order. Vide order dated 04.07.2017, the respondent rejected the claim of the petitioner for the restoration of the intra district transfer, which order is under challenge in the present petition.

Learned counsel for the petitioner argues that the petitioner had already submitted the requisite medical certificate proving that the petitioner

was suffering from a chronic disease which was issued by the Medical

Officer of District Jhajjar and after the cancellation of his intra district transfer order, even a certificate from the PGI, Rohtak, has also been submitted, therefore, the petitioner be given the benefit of the said document though submitted after the last date. Learned counsel submits that PGI, Rohtak had earlier refused to examine the petitioner for grant of medical certificate certifying that the petitioner suffers from a chronic disease but it was only on the asking of the competent Court of law that the petitioner was examined by the PGI, Rohtak and a certificate certifying that the petitioner is suffering from a chronic disease was issued, hence, in the facts and circumstances of this case, the cancellation of the intra district transfer of the petitioner may kindly be set aside.

Upon notice of motion, the respondents have filed the reply wherein, it has been mentioned that the intra district transfer policy was issued with certain stipulations and conditions imposed therein and the candidates who fulfill the conditions imposed therein were allowed the benefit of intra district transfer. Hence, as the petitioner failed to produce appropriate medical certificate from the PGI, Rohtak certifying that the petitioner was suffering from chronic disease, no benefit of the intra district transfer could be given to the petitioner on the basis of the certificate issued by the Chief Medical Officer of District Jhajjar.

Learned counsel for the respondent further submits that the contention of the petitioner that PGI, Rhotak refused to give medical certificate to the petitioner is incorrect as, other candidates who applied in pursuance to the intra district transfer, duly submitted a certificate from the said institute, therefore, once other candidates were examined by the PGI, Rohtak and the certificate issued by the PGI, Rohtak had come on record, the

medical certificate despite the fact the petitioner approached, cannot be accepted hence, the plea being taken by the petitioner is incorrect and is an afterthought and therefore, the claim may kindly be declined.

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

Once an intra district transfer policy has been issued by the department and the same envisage certain terms and conditions, the candidates seeking benefit of the said policy is under obligation to fulfill the requirements imposed in the said policy. Unless and until the conditions imposed in the policy are satisfied by a candidate no benefit of the same can be extended. It is conceded by the learned counsel for the petitioner even during the arguments that as per the intra district policy under which the petitioner was seeking the benefit of transfer from district Sonapat to Jhajjar, the petitioner was required to produce a medical certificate duly issued by PGI, Rohtak certifying that he is suffering from a chronic disease. It is also conceded by the petitioner that upto the last date, the petitioner did not submit the said certificate. That being so, the petitioner cannot claim eligibility for consideration under the intra district transfer policy once the petitioner did not fulfill the conditions required under the said policy.

Now the plea of the petitioner that PGI, Rohtak authorities refused to examine him for issuance of a certificate certifying that he is suffering from a chronic disease needs to be approved. The argument being raised by the learned counsel for the petitioner is that as per the instructions of the petitioner, PGI, Rohtak, does not issue a certificate depicting a disease to be chronic disease. Hence, the petitioner had no other option but to submit such kind of an affidavit issued by the district

The said contention of the petitioner is to be examined in view of the conceded fact that the requirement of submission of the chronic disease certificate from PGI authorities was applicable to all the employees who sought intra district transfer. The learned counsel for the respondent has submitted before this Court that only the candidate who fulfilled the said requirement was given benefit under the intra district transfer policy. If the contention of the petitioner is to be accepted it would mean that no other employee was given benefit under the intra district transfer policy. In case, the other candidates were issued the certificate by PGI, Rohtak, the contention of the petitioner that no such certificate was issued to the petitioner by the said institute despite demand, cannot be accepted. Therefore, keeping in view the above as, the petitioner failed to fulfil the requirement of the intra district transfer policy up to the last date, the recalling of the benefit extended to the petitioner under the said policy cannot be termed as arbitrary.

Keeping in view the above, no interference is called by this Court under the facts and circumstances of this case especially when a period of 5 years has been lapsed since the intra district transfer policy was issued and the petitioner is continuing in district Sonapat even as of now.

Dismissed.

(HARSIMRAN SINGH SETHI)
JUDGE

17.11.2022
sangeeta

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