

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision: September 15, 2022

1. CWP-22940-2017 (O&M)
Suresh KumarPetitioner
versus

State of Haryana and others
.....Respondents

2. CWP-22980-2017 (O&M)
Surender SinghPetitioner
versus

State of Haryana and others
.....Respondents

3. CWP-22994-2017 (O&M)
KuldipPetitioner
versus

State of Haryana and others
.....Respondents

4. CWP-23071-2017 (O&M)
Sandeep KumarPetitioner
versus

State of Haryana and others
.....Respondents

5. CWP-23069-2017 (O&M)
BalinderPetitioner
versus

State of Haryana and others
.....Respondents

6. CWP-23065-2017 (O&M)
Harpal SinghPetitioner
versus

State of Haryana and others

....Respondents

7. CWP-23028-2017 (O&M)

Rishi Raj

....Petitioner

versus

State of Haryana and others

....Respondents

8. CWP-22997-2017 (O&M)

Mehar Chand

....Petitioner

versus

State of Haryana and others

....Respondents

9. CWP-23256-2017 (O&M)

Prem Singh

....Petitioner

versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Ms. Arti, Advocate for
Mr. Shalender Mohan, Advocate,
Mr. Amarjeet Beniwal, Advocate for
Mr. Jagjeet Beniwal, Advocate,
Mr. Rajat Mor, Advocate for the petitioner(s).

Mr. R.K.S. Brar, Additional AG Haryana.

ARUN MONGA, J. (ORAL)

Vide this common order, bunch of above-mentioned writ petitions are being disposed of, since the facts and the law points and the issues raised therein are similar. For brevity, recitals are taken from CWP-22940-2017.

2. Petition herein, *inter alia*, is for issuance of a writ in the nature of Certiorari for quashing impugned order dated 10.08.2017 (Annexure P-3)

passed by respondent No.3 whereby petitioner has been transferred from Hisar to Faridabad against the Government Policy dated 06.10.2004 (Annexure P-4).

3. Controversy involved herein has already been summed up vide detailed order dated 13.10.2017 passed by Amol Rattan Singh, J. (as he then was in this Court) in the following words:

“In all these petitions, the petitioners who are either Drivers or Conductors in the Transport Department of the Government of Haryana, have challenged their transfer orders from one depot to another, with some petitioners being those who are similarly situated as the persons referred to as the “first set of the petitioners” in the judgment of this Court dated 01.09.2017, passed in CWP No. 17899 of 2017, and the other petitioners in the present set of petitions being similarly situated to those referred to as the “second set of petitioners” in the aforesaid judgment.

Pursuant to earlier order passed in CWP No. 22940 of 2017, Mr. R.K. Doon, A.A.G., Haryana, has filed in Court today an affidavit of even date, of Sh. Vikas Gupta IAS, Director General, State Transport, Haryana stating that in terms of the directions given by this Court in its aforesaid judgment dated 01.09.2017, General Managers of 21 depots in the State of Haryana have submitted information with regard to Drivers and Conductors posted in each of those depots, as regards their length of stay in such depots, also recommending as to whether particular employees should or should not be transferred out from that depot, on the basis of such length of stay, or in view of any of the exceptions carved out in the transfer policy.

General Managers of two depots are stated not to have furnished the information as yet, though the places where those depots are located, have not been given in the affidavit.

Consequently, the two General Managers of the depots in question as have not submitted the information to the Director General, are directed to do so within one week from today, after which one months' time is given to the Additional Chief Secretary to the Government of Haryana, Department of Transport/Director General State Transport (whosoever is the competent authority), to pass appropriate orders as regards transfers to be made from one depot to another, of Drivers and Conductors, in terms of the length of stay of a particular employee in a depot, subject of course to exceptions carved out in the transfer policy, (other than the exception stated to be “for compelling administrative reasons”).

In other words, the directions given by this Court in its order dated 01.09.2017 be carried out within a period of one month and one week from today, failing which the Director General State Transport Haryana, shall remain personally present in Court, on the next date of hearing.

Adjourned to 22.11.2017.

It is made amply clear that in those of these petitions in which stay orders have not been passed by this Court, even in the case of those persons who are similarly situated as those referred to the as the “first set of the employees” in the order dated 01.09.2017, their stay in the depots from which they have been transferred out, will be calculated obviously deducting the period since they have been transferred out, with such employee to be posted back to those depots, till they complete an actual period of at least two years, in terms of the transfer policy existing.

A copy of this order be given to learned State counsel under the signatures of the Special Secretary of this Court.

A photocopy of this order be placed on the file of the other connected cases.”

4. More than 4 years have passed since then. However, petitioner(s) have been continuing at their respective places by virtue of aforesaid interim order. Interim stay has already outlived its utility period and/ or cessation of mitigating circumstances, if any.
5. No grounds for further indulgence are made out.
6. Dismissed.
7. However, dismissal of the writ petitions shall not be construed, in any manner, to mean that in case administrative exigency does not warrant, even then the petitioners have to be now necessarily transferred. The said decision is left to the discretion of the competent authority.
8. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

September 15, 2022

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No