

CWP No. 19413 of 2022(O&M) and other connected cases

1

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

(114) **CM-13428-CWP-2022 in/and**
CWP No. 19413 of 2022(O&M)
Date of Decision : 31.08.2022
Rajkiran **...Petitioner**

Versus

State of Haryana and another **...Respondents**

(127) **CWP No. 19396 of 2022**
Ajit Singh **...Petitioner**

Versus

State of Haryana and another **...Respondents**

(130) **CWP No. 19423 of 2022**
Satender Singh **...Petitioner**

Versus

State of Haryana and others **...Respondents**

(131) **CWP No. 19436 of 2022**
Vikas **...Petitioner**

Versus

State of Haryana and another **...Respondents**

(132) **CWP No. 19446 of 2022**
Kusum Rani **...Petitioner**

Versus

CWP No. 19413 of 2022(O&M) and other connected cases

2

State of Haryana and others

...Respondents

(134)

CWP No. 19451 of 2022

Naveen Allawadi

...Petitioner

Versus

State of Haryana and another

...Respondents

(135)

CWP No. 19453 of 2022

Baljeet Singh

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Lekhraj Nandal, Advocate for the petitioner
in CWP No. 19413 of 2022.

Mr. Sandeep Goyat, Advocate for the petitioner
in CWP No. 19396 of 2022.

Mr. Rahul Deswal, Advocate for the petitioner
in CWP No. 19423 of 2022.

Mr. Sanchit Punia, Advocate for the petitioner
in CWP Nos. 19436 and 19451 of 2022.

Mr. Vikram Sheoran, Advocate for the petitioner
in CWP No. 19446 of 2022.

Mr. Tejpal Singh Dhull, Advocate for the petitioner
in CWP No. 19453 of 2022.

Harsimran Singh Sethi J. (Oral)

CM-13428-CWP-2022 in CWP No. 19413 of 2022

Application is allowed, as prayed for.

CWP Nos. 19413, 19396, 19423, 19436, 19446, 19451 and 19453 of 2022

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

The grievance of the petitioner(s) is that the respondents had issued a transfer policy, according to which Policy, the transfer drive was to be undertaken so as to effect transfers of the Teachers concerned but keeping in view the facts and circumstances in the case of the petitioners, the details of which have been given in the petitions, provisions of the transfer policy has not been followed by the respondents, which is causing prejudice to them.

To site some of the objections, which have been raised by the learned counsel for the petitioner(s), one of the grievance is that the petitioner(s) have not completed 5 years tenure at the present place of posting, which according to the policy, is mandatory for effecting the transfer and the same has to be kept in mind even as per the direction given by this Court in CWP No. 15108 of 2021 titled as ***Vikram Singh and others Vs. State of Haryana and others***, decided on 24.08.2021 but despite the said clause in the transfer policy as well the direction by the Co-ordinate Bench of this Court, the petitioner(s) have been transferred prior to completion of 5 years at the present place of posting.

Another grievance of the petitioner(s) is that the transfers were to be effected by granting marks for various aspects and the preferred option of a station was to be allotted to the Teacher, who had more marks, which clause of the transfer policy has been ignored as some of the petitioners have stated in their petitions that the Teachers, who had lesser marks vis-a-

vis the petitioners, have been given the station, which was opted by the petitioners.

Another grievance of the petitioner(s) is that some of the candidates, who had raised the similar objections of not having 5 years service at a particular station, their objections have been accepted and they have been exempted from the transfer drive whereas, the petitioner(s) having same objections, have been transferred, which amounts to discrimination.

Notice of motion.

On the asking of the Court, Mr. Harish Nain, learned Assistant Advocate General, Haryana, who is present in Court, accepts notice on behalf of the respondent-State.

Learned State counsel submits that in the present cases, the grievances, which are being raised by the petitioner(s), are specific to their case so as to contend that they were not covered under the transfer policy for being transferred or any of the clause of the transfer policy, has not been adhered to in their case while effecting the transfer. Hence, in case, the petitioner(s) have any grievance qua the transfer, which has been effected, petitioner(s) are free to approach the authorities concerned by filing appropriate representation and the grievance raised in the representation will be considered by the competent authorities concerned and appropriate order on the said representation will be passed within a week of the submission of any such representation. Learned counsel for the respondents further submits that in case, the representation is filed within two days, appropriate order will be passed by 08.09.2022.

Learned counsel for the petitioner(s) are agreeable for the said option and submit that they are ready to file their representation raising their

grievance as raised in the present petitions before the authorities concerned for consideration and the said representation will be filed manually before the Director, Secondary/Elementary Education, Haryana, as the case may be, by 01.09.2022.

Learned counsel for the petitioner(s) submit that once the respondents have agreed to look into the grievance of the petitioner(s), the petitioner(s) be allowed to continue at their present place of posting so that, in case their representation is accepted, they do not suffer the harassment of again being transferred back to the same station.

Learned State counsel opposes the said request vehemently saying that the same will disturb the chain, which has been created by the transfer policy.

Keeping in view the above, as prayed for by the learned counsel for the petitioner(s), the present petitions are disposed of having been not pressed any further with liberty to file appropriate representation raising the grievance as raised in the present petitions before the authorities concerned and the respondents are directed to decide the same as undertaken here-in-before.

In respect of the prayer of the petitioner(s) for allowing them to continue at the present place of posting till their representation is decided, the same has merit. In case, prayer of the petitioner(s) as raised in their representations is accepted by the respondents, the transfer already effected will result in harassment of dislodging the petitioner(s) again, which will not be in the interest of the petitioner(s) or the students, who are being taught by the petitioner(s). Hence, in case upto now, the petitioner(s) have not been relieved from their present place of posting, they will be allowed to continue at the present place of posting till their claim is decided by the competent authority

and thereafter, in case the prayer of the petitioner(s) is accepted, they will be

CWP No. 19413 of 2022(O&M) and other connected cases

6

allowed to continue at the same place, failing which, the petitioner(s) will join the place of posting as allotted to them by the impugned order.

It is made clear that in case, petitioner(s) feel aggrieved even after the decision on their representation, they will be at liberty to avail any appropriate remedy, if available to them, under the law.

Petitions are disposed of in above terms.

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

August 31, 2022
kanchan

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No