

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

1. Civil Writ Petition No.26710 of 2017(O&M)
Date of Decision: May 24 , 2022.

Yogesh Kumar and others PETITIONER(s)

Versus

State of Haryana and others RESPONDENT (s)

2. Civil Writ Petition No.8553 of 2018(O&M)

Abhishek Sagar and others PETITIONER(s)

Versus

State of Haryana and others RESPONDENT (s)

3. Civil Writ Petition No.9009 of 2018(O&M)

Anju Bala PETITIONER(s)

Versus

State of Haryana and others RESPONDENT (s)

4. Civil Writ Petition No.4019 of 2018(O&M)

Sanjeev Kumar and others PETITIONER(s)

Versus

State of Haryana and others RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Parth Goyal, Advocate for
Mr. Anurag Goyal, Advocate
for the petitioners in CWP No.26710 of 2017.
Mr. Karan Singh, Advocate
for the petitioners in CWP Nos.8553 and 9009 of 2018.
Mr. Sunil Kumar Nehra (Sirsa), Advocate
for the petitioners in CWP No.4019 of 2018.

Mr. R.S.Budhwar, Addl.AG, Haryana.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

This order shall dispose of CWP Nos.26710 of 2017, 8553, 9009 and 4019 of 2018.

Petitioners in **CWP No.26710 of 2017** seek quashing of order dated 07.07.2017 whereby respondents No.6 to 11 have been adjusted against vacant posts purportedly on account of restructuring/abolition of teaching posts in various Government Polytechnic Societies. Further prayer has been addressed for a direction to the official respondents to formulate transparent set of parameters/guidelines/criteria before implementation of the restructuring policy for Society Polytechnics and Government Cadre Polytechnics and to reconvene the counselling process afresh by including six posts, which are occupied by the said private respondents. CWP No.26710 of 2017 was withdrawn on 26.04.2018 qua petitioner No.2, who was sent on deputation as Assistant Director in AICTE. Notice of motion was issued in this writ petition on 24.11.2017 while noting the contentions on behalf of petitioners as under:-

“Learned counsel for the petitioners submits that despite having adjusted 6 lecturers who were declared surplus, in the very same Polytechnic Society in which they were declared surplus (as per the order Annexure P-7, dated 07.07.2017), the petitioners, who were also declared surplus, are being adjusted in different Polytechnic Societies far away from the places where they were earlier working, even though either in those very societies or in nearby Polytechnic Societies (institutions), there are posts of HODs

and Senior Lecturers, against which the petitioners can be adjusted in the same manner as those whose names are given in Annexure P-7.

He submits that this is especially so in view of the fact that the petitioners, on merit, would be senior to those persons whose names are given in the aforesaid order.”

CWP Nos.9009 and 8553 of 2018 have been filed seeking quashing of order dated 28.03.2018 vis-a-vis shifting of the petitioners by declaring them surplus while submitting that the said exercise has been undertaken without following the Bye-laws approved by the Governing Council of the Haryana State Board of Technical Education and guidelines regarding transfer of excess employees. In CWP No.8553 of 2018, petitioner No.2 sought permission to withdraw the writ petition as he was no longer interested in pursuing the case. Accordingly, his name was struck off from the array of parties on 27.02.2019.

CWP No.4019 of 2018 has been filed by the petitioners for a direction to the respondents to seek an option from the petitioners for transfer as transfer/assignment of new place of posting to surplus staff on account of restructuring would render the petitioners junior who are otherwise stated to be senior to the Lecturers, who have been declared surplus vide order dated 07.07.2017 and are being transferred on this account.

It is to be noticed that except in CWP No.4019 of 2018, interim orders were issued in petitioners' favour.

CM No.15095-CWP of 2019 has been filed in CWP No.26710 of 2017 by respondent-State seeking permission to withdraw the impugned orders dated 07.07.2017, 21.07.2017 and 28.03.2018 with liberty to pass fresh orders.

Learned counsel for the State while referring to the said application submits that in view of pending court cases, it has been decided to review the matter, especially in respect to declaration of surplus staff as per the factual position and to consider all issues afresh after taking into consideration the grievances raised by the petitioners, after giving due opportunity to all concerned. The relevant paras of the said application read as under:-

“7. That keeping in view of above contentions raised by the petitioners and to ensure optimal utilization of their services, these 30 surplus staffs were adjusted/shifted provisionally in other Government/Society Polytechnics keeping in view the requirement of the factually and to withdraw their salary against the vacant posts vide Govt. order dated 28.03.2018 till as an interim measure only. Copy of the same is annexed as Annexure A/1. Further, it has also been decided in above order dated 28.03.2018 that earlier orders of the Govt. dated 07.07.2017 and order dated 21.07.2017 (Annexure P-7 & Annexure P/8) may also be reviewed in view of court cases/interim orders, and the declaration of surplus staff may be made accordingly as per factual position born out after the review. However, some other surplus persons challenged above orders dated 28.03.2018 and filed writ petitions CWP No.8553 of 2018, 8359 of 2018 and 9009 of 2018 before this Hon'ble court which are also pending adjudication.

8. That in view of above writs petition/interim orders, the matter was re-considered by the Government in context with the prayer of the petitioners in above writs petitions (*CWP No. 26710 of 2017, CWP No.4019 of 2018, CWP No.8553 of 2018, 8359 of 2018 and 9009 of 2018*). After reconsideration of all aspects, it was decided that in the interest of justice, the department may consider all issues afresh taking into consideration the grievances raised by the petitioners and after giving due opportunity to all concerned. Accordingly, it is requested to this Hon'ble court that the

department may kindly be allowed to withdraw the impugned order dated 07.07.2017 (Annexure P-7), impugned order dated 21.07.2017 (Annexure P/8) and further provisionally adjustment order dated 28.03.2018 (Annexure A/1) and the declaration of surplus staff may be made afresh as per factual position born out after the review. Further, the department may be allowed to transfer them back to their respective parent society polytechnic till the final declaration of new surplus orders and department will carry out the exercise to merge them permanently to other society polytechnic as per rules/policies.”

Learned counsel for the State further submits that grievance of the petitioners in CWP No.4019 of 2018 shall also be considered before taking a final decision.

Learned counsel for the petitioners do not raise any objection to withdrawal of the said orders in the terms as above. However, they seek liberty to challenge subsequent order, if adverse to their interest.

Keeping in view the facts and circumstances of the case, CM No.15095-CWP of 2019 is allowed.

In view of the specific stand of the official respondents in CM No.15095-CWP of 2019 regarding withdrawal of impugned orders dated 07.07.2017, 21.07.2017 and 28.03.2018, present writ petitions are necessarily rendered infructuous and are, accordingly, disposed of.

Pending applications, if any, are disposed of accordingly.

Needless to say, in view of the action of the official respondents in withdrawing the impugned orders and transferring the 'surplus staff' back to their parent Society Polytechnic, petitioners in CWP No.26710 of 2017, CWP Nos.8553 and 9009 of 2018 be permitted to continue at the present stations till

final decision is taken by the competent authority in this matter.

Petitioners are at liberty to challenge subsequent order(s), if adverse to their interest in accordance with law.

May 24 , 2022.
'om'

(LISA GILL)
JUDGE

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