

CWP-21419-2022 along with connected petitions
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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of Decision: 19.09.2022

(112+131)	CM No. 14751-CWP-2022 in/and CWP No. 21419 of 2022
Sharanjeet Kaur	 Petitioner
Versus	
State of Haryana and others	... Respondents
(114)	CM No. 14828-CWP-2022 CWP No. 21395 of 2022
Dheeraj Gupta	 Petitioner
Versus	
State of Haryana and others	... Respondents
(120)	CWP No. 21359 of 2022
Poonam	 Petitioner
Versus	
The State of Haryana and others	... Respondents
(123)	CWP No. 21378 of 2022
Ataulla Khan	 Petitioner
Versus	
State of Haryana and others	... Respondents
(124)	CWP No. 21393 of 2022
Harun Khan	 Petitioner
Versus	
State of Haryana and others	... Respondents

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(126)	CWP No. 21398 of 2022	
Varun Kumar	Versus	 Petitioner
State of Haryana and another		... Respondents
(136)	CWP No. 21437 of 2022	
Sangeeta Yadav and another	Versus	 Petitioners
State of Haryana and others		... Respondents
(137)	CWP No. 21441 of 2022	
Sunil Lata	Versus	... Petitioner
State of Haryana and another		... Respondents
(138)	CWP No. 21444 of 2022	
Pardeep Kumar	Versus	 Petitioner
State of Haryana and anotheer		... Respondents
(139)	CWP No. 21448 of 2022	
Sajjan Kumar	Versus	 Petitioner
State of Haryana and others		... Respondents
(140)	CWP No. 21449 of 2022	
Vinod Kumar	Versus	 Petitioner
State of Haryana and another		... Respondents

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(143)	CWP No. 21465 of 2022	
Priti Ahuja		 Petitioner
	Versus	
State of Haryana and others		... Respondents
(144)	CWP No. 21469 of 2022	
Ravinder Singh		 Petitioner
	Versus	
State of Haryana and others		... Respondents
(145)	CWP No. 21470 of 2022	
Manju Rani		 Petitioner
	Versus	
State of Haryana and another		...Respondents
(146)	CWP No. 21471 of 2022	
Aruna		 Petitioner
	Versus	
State of Haryana and others		... Respondents
(147)	CWP No. 21473 of 2022	
Rajeev Sharma		 Petitioner
	Versus	
State of Haryana and another		... Respondents
(148)	CWP No. 21475 of 2022	
Neelam		 Petitioner
	Versus	
State of Haryana and others		... Respondents

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(149)	CWP No. 21476 of 2022	
Sunil Kumari and another		 Petitioners
	Versus	
State of Haryana and another		... Respondents
(150)	CWP No. 21478 of 2022	
Priyanka and others		 Petitioners
	Versus	
State of Haryana and others		... Respondents
(151)	CWP No. 21480 of 2022	
Kavita Rani		 Petitioner
	Versus	
State of Haryana and others		... Respondents
(152)	CWP No. 21483 of 2022	
Rekha Rani		 Petitioner
	Versus	
State of Haryana and another		... Respondents
(153)	CWP No. 21484 of 2022	
Renu Bala and another		 Petitioners
	Versus	
State of Haryana and others		... Respondents
(154)	CWP No. 21486 of 2022	
Suman Devi		 Petitioner
	Versus	
State of Haryana and others		... Respondents

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(155)	5	
	CWP No. 21488 of 2022	
Kapil Dev and others		 Petitioners
	Versus	
State of Haryana and others		... Respondents
(156)	CWP No. 21489 of 2022	
Mahabir Singh		 Petitioner
	Versus	
State of Haryana and others		... Respondents
(157)	CWP No. 21491 of 2022	
Ritu Kaushal		 Petitioner
	Versus	
State of Haryana and others		... Respondents
(158)	CWP No. 21494 of 2022	
Balwan Singh		 Petitioner
	Versus	
State of Haryana and others		... Respondents
(161)	CWP No. 21503 of 2022	
Suchitra		 Petitioner
	Versus	
State of Haryana and others		... Respondents
(162)	CWP No. 21507 of 2022	
Anshu		 Petitioner
	Versus	
State of Haryana and others		... Respondents

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(163)	CWP No. 21508 of 2022	
Jyoti		 Petitioner
	Versus	
State of Haryana and others		... Respondents
(164)	CWP No. 21512 of 2022	
Kuldeep and others		 Petitioners
	Versus	
State of Haryana and another		... Respondents
(165)	CWP No. 21515 of 2022	
Manoj Kumar		 Petitioner
	Versus	
State of Haryana and others		... Respondents
(167)	CWP No. 21520 of 2022	
Rajesh Kumar and others		 Petitioners
	Versus	
State of Haryana and others		... Respondents
(168)	CWP No. 21524 of 2022	
Birender Singh		 Petitioner
	Versus	
State of Haryana and others		... Respondents
(169)	CWP No. 21526 of 2022	
Ritu Bala		 Petitioner
	Versus	
State of Haryana and others		... Respondents

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(170)	CWP No. 21528 of 2022	
Anita Kumari	Versus	 Petitioner
State of Haryana and others		... Respondents
(171)	CWP No. 21534 of 2022	
Subhash Chander	Versus	 Petitioner
State of Haryana and others		... Respondents
(172)	CWP No. 21537 of 2022	
Saroj Kumari	Versus	 Petitioner
State of Haryana and others		... Respondents
(175)	CWP No. 21549 of 2022	
Asha Devi	Versus	 Petitioner
State of Haryana and others		... Respondents
(176)	CWP No. 21551 of 2022	
Vinay Kumar	Versus	 Petitioner
State of Haryana and others		... Respondents
(177)	CWP No. 21552 of 2022	
Rajni Gandhi	Versus	 Petitioner
State of Haryana and others		... Respondents

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CWP No. 21559 of 2022

Anita Devi

.... Petitioner

Versus

State of Haryana and others

... Respondents

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CWP No. 21580 of 2022

Sudesh Kumari

.... Petitioner

Versus

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. S.K. Malik, Advocate
for the petitioner(s) in CWP Nos.-21419 and 21395 of 2022.

Mr. Gaurav Dutta, Advocate
for the petitioner in CWP-21359-2022.

Mohammad Arshad, Advocate
for the petitioner(s) in CWP Nos. 21578-21393 of 2022.

Mr. Sharad Chaudhary, Advocate
for the petitioner in CWP-21398-2022.

Mr. Sandeep Kumar Yadav, Advocate
for the petitioner in CWP-21437-2022.

Mr. Jawahar Lal Goyal, Advocate and
Mr. Parth Goyal, Advocate
for the petitioners in CWP-21441-2022, CWP-21444-2022,
CWP-21449-2022, CWP-21470-2022, CWP-21473-2022 and
CWP-21483-2022.

Mr. Abhimanyu Singh, Advocate
for the petitioner in CWP-21448-2022.

Mr. Chirag Wadhwa, Advocate
for the petitioner in CWP-21465-2022.

Mr. Amarjeet Beniwal, Advocate for
Mr. Jagjeet Beniwal, Advocate
for the petitioner in CWP-21469-2022.

Mr. Kamal Mor, Advocate and
Mr. Saurabh Dalal, Advocate

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for the petitioner(s) in CWP-21471-2022 and
CWP-21486-2022.

Mr. Sandeep Lather, Advocate
for the petitioner in CWP-21475-2022.

Mr. V.D. Sharma, Advocate
for the petitioners in CWP-21476-2022.

Mr. Jasbir Mor, Advocate
for the petitioner(s) in CWP-21478-2022 and
CWP-21488-2022.

Mr. Rajiv Kumar Doon, Advocate
for the petitioner(s) in CWP-21480-2022 & CWP-21494-2022.

Mr. Jasmer Singh Rozera, Advocate
for the petitioner(s) in CWP-21484-2022.

Mr. Deepak Sonak, Advocate
for the petitioner in CWP-21489-2022.

Mr. Farheen Bajwa, Advocate and
Mr. Harsh Aggarwal, Advocate
for the petitioner in CWP-21491-2022.

Mr. Anil Kumar Sharma, Advocate
for the petitioner(s) in CWP-21503-2022 & CWP-21559-2022.

Mr. D.S. Virk, Advocate
for the petitioner in CWP-21507-2022.

Mr. Vineet Kumar Jakhar, Advocate and
Mr. Sudarshan Thakur, Advocate
for the petitioner(s) in CWP-21508-2022 & CWP-21528-2022.

Mr. Anshul Gupta, Advocate
for the petitioners in CWP-21512-2022.

Mr. Ajit Kumar Sharma, Advocate
for the petitioner(s) in CWP-21515-2022 & CWP-21552-2022.

Mr. Sandeep Thakan, Advocate
for the petitioners in CWP-21520-2022.

Mr. Sanchit Punia, Advocate for
Mr. Tejpal Dhull, Advocate
for the petitioner in CWP-21524-2022.

Mr. Balraj Singh Sidhu, Advocate
for the petitioner in CWP-21526-2022.

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Mr. Vikram Sheoran, Advocate and
Mr. Anurag Sharma, Advocate
for the petitioner(s) in CWP-21534-2022, CWP-21537-2022,
CWP-21549-2022 and CWP-21551-2022.

Mr. Krishan Kumar Thakur, Advocate for
Mr. Mohan Singla, Advocate
for the petitioner in CWP-21580-2022.

Harsimran Singh Sethi, J. (Oral)

CM No. 14751-CWP-2022 in CWP-21419-2022

Application is allowed, as prayed for.

CM No. 14828-CWP-2022 in CWP-21395-2022

Application is allowed, as prayed for.

CWP-21419-2022 and other connected cases

By this common order, all the petitions, the details of which have been mentioned in the heading, are being disposed of as all of them involve similar question of law.

In the present bunch of petitions, the petitioners are challenging their transfer orders on several grounds which are enumerated as under.

The first ground as submitted by the learned counsel for the petitioner(s) is that the orders of transfers have been passed without going into the factual aspect that certain teachers who though have not completed the minimum tenure at the present place of posting, still they have been transferred, which transfer is contrary to the directions issued by a Coordinate Bench of this Court in **CWP No.15108 of 2021** on 24.08.2021, titled as **Vikram Singh and others versus State of Haryana and others.**

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The second ground raised is that certain teachers have been declared surplus even prior to their completion of minimum tenure at the present place of posting so as to transfer them to far off stations without ascertaining the fact that sufficient number of students exists at their present place of posting, hence, declaring of the petitioner(s) as surplus by the respondents is totally arbitrary and illegal so as to effect their transfers.

Third ground raised with respect to certain petitioner(s) is that the stations preferred by them are still lying vacant and are now being treated “kept vacant” by the respondents, however, at the time of seeking options, the said stations were open to be opted for, hence, the transfer of petitioner(s) to a station which was not preferred by them by not considering their claim for the opted station is totally arbitrary and illegal.

Fourth ground raised is that without looking into the family aspects of the petitioner(s), they have been given posting at far off places, which is causing prejudice to the petitioner(s) keeping in view the fact that the petitioner(s) are being paid a fixed salary and it will be difficult for them to survive at the transferred place of posting.

Fifth ground as raised is that the petitioner(s) were transferred on 28.08.2022, 12.09.2022 and 13.09.2022 and within a very short span of period several of them have been again transferred and that too without any valid reason, which is causing prejudice to the petitioner(s).

Sixth ground as raised is that the stations which were opted by some of the petitioner(s), have been given to the candidates who were having lesser merit than the petitioner(s), which is contrary to the provisions of transfer policy.

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Seventh ground as raised is that without considering the aspect of the couple cases, which parameter has also been envisaged in the transfer policy and has to be kept in mind while issuing the transfer, has been ignored by the respondents and the couple have been transferred miles apart, which will disturb their married life.

Learned counsel for the petitioner in CWP No. 21508 of 2022 submits that where the petitioner has been transferred, there is not even a single student to be taught by the petitioner which shows that there is no application of mind while fixing the transfer stations by the respondents.

Lastly the contention raised by learned counsel for the petitioner(s) is that in case of certain petitioner(s), the station which was opted by them, was not allotted on the ground of non availability of the post at the opted station but the same has been given to another candidate subsequent to their transfer, which act of the respondents as submitted is arbitrary and illegal.

Notice of motion.

Mr. Harish Nain, Assistant Advocate General, Haryana accepts notice on behalf of the respondents and submits that the reasons for challenging the transfers being forwarded by the petitioner(s) are specific to them and in case, the petitioner(s) have already raised their grievances by filing of appropriate representation(s) or any representation, if filed manually till Wednesday i.e. 21.09.2022, will also be accepted and the same shall be looked into by the competent authority within a period of 10 days from today by passing an appropriate speaking order.

Learned State counsel further submits that in case, the petitioner(s) have not been relieved till today from the present place of

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posting then they will be allowed to continue at the present place of posting till the decision of the said representation(s) in case, the same are filed and in case, the petitioner(s) have already been relieved from the present place of posting, they will not be forced to join at the new place of posting till the decision of the said representation(s).

Learned counsel for the petitioner(s) submit that keeping in view the statement of the learned State counsel, the present petitions may kindly be disposed of as having been not pressed any further with liberty to the petitioner(s), who are yet to file the representation, to approach the respondents by filing appropriate representation(s) raising their grievances as raised in the present petitions.

Ordered accordingly.

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

September 19, 2022
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No