

**CM-21548-CWP-2023 in/and
CWP-10117-2023 2023:PHHC:165245 1
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

(111) **CM-21548-CWP-2023 in/and
CWP-10117-2023
Date of Decision : December 22, 2023**

Jagvir **.. Petitioner**

Versus

State of Haryana and another .. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Punit Malik, Advocate, for the petitioner.

Mr. Pankaj Middha, Addl. Advocate General, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

CM-21548-CWP-2023

Present application has been filed for preponing the date of hearing of the main petition i.e. CWP-10117-2023, which stands adjourned to 08.04.2024.

Notice of the application to the counsel opposite.

Mr. Pankaj Middha, learned Addl. Advocate General, Haryana, who is present in the Court, accepts notice on behalf of respondents and raises no objection for the grant of prayer as raised in the present application.

Keeping in view the above, application is allowed and the hearing of the main petition i.e. CWP-10117-2023 is preponed from 08.04.2024 to today.

CWP-10117-2023

1. In the present writ petition, the grievance of the petitioner is that appropriate direction be given to the respondents to comply with the online transfer policy, which has been issued for the transfer of the Veterinary Livestock Development Assistant in a letter and spirit.

2. Further, it has been prayed that the posts which have been declared vacant as per the transfer policy be taken into consideration for effecting the transfers and the same be not blocked for the purpose of transfer.

3. Learned counsel for the respondents submits that whatever the criteria has been fixed in the transfer policy, the same will be adhered to while effecting the transfers. Learned counsel for the respondents further submits that the transfer policy is only a guideline for effecting the transfers and all the efforts will be made by the State to comply with the clauses of the transfer policy as far as practicable and the posts which have been blocked is to ensure that employees are only posted against the posts of which work is required.

4. Learned counsel for the respondents further submits that even otherwise as per the settled principle of law, the transfer policy is not enforceable at the hands of the employee.

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

6. The first question which arise is whether, the transfer policy is justiciable or not. It is a settled principle of law settled by the Hon'ble Supreme Court of India that the transfer policy issued is only a guideline and will not give a right to an employee to challenge the same. Hon'ble

as S.K. Nausad Rahaman and others vs. Union of India and others,

decided on 10.03.2022, held that the transfer policy issued is not justiciable

at the hands of the employee. The relevant paragraph of the said judgment is

as under:-

“ 24. First and foremost, transfer in an All India Service is an incident of service. Whether, and if so where, an employee should be posted are matters which are governed by the exigencies of service. An employee has no fundamental right or, for that matter, a vested right to claim a transfer or posting of their choice.

25. Second, executive instructions and administrative directions concerning transfers and postings do not confer an indefeasible right to claim a transfer or posting. Individual convenience of persons who are employed in the service is subject to the overarching needs of the administration.”

7. Not only this, the Division Bench of this Court while passing order in ***LPA No.247 of 2020 titled as Nisha Vs. State of Haryana on 24.02.2020,*** has held that even where there is a violation of the transfer policy, the same will not be justiciable at the hands of the employee. The relevant paragraph of the said judgment is as under:-

“7. It is to be noted that in view of the law laid down by the Supreme Court in the cases of Mrs. Shilpi Bose and others v. State of Bihar and others, AIR 1991 Supreme Court 532; Union of India and others v. S.L Abbas, AIR 1993 Supreme Court 2444, and National Hydroelectric Power Corporation Ltd. v. Shri Bhagwan and another, AIR 2001 Supreme Court 3309, transfer policy is not enforceable and an order of transfer in violation thereof cannot be assailed on that ground. It is also evident that learned Single Judge has dismissed the petition, granting liberty to the petitioner to avail of the remedies available to her under letter dated 27.8.2019.”

8. Learned counsel for the petitioner has not been able to rebut the law, which has been cited hereinbefore.

9. Keeping in view the above, once a statement has been given by the learned counsel for the respondents that as far as practicable, the transfer policy will be adhered to keeping in view the administrative exigencies, the claim of the petitioner that the transfer should be effected in a particular manner and that too against the posts which have been blocked, which is liking to the petitioner, cannot be accepted.

10. No ground is made out for any interference by this Court.

11. Dismissed.

December 22, 2023

harsha

(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No