

**CWP-25776-2019 and
CWP-1074-2020**

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

Date of decision: 09.03.2023

1. CWP-25776-2019

Suman Kumar

...Petitioner

Versus

State of Haryana and others

.....Respondents

AND

2. CWP-1074-2020

Suresh Kumar

...Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Sachin Bansal, Advocate for
Mr. Raje Ram Kaushik, Advocate,
for the petitioners in both the petitions.

Mr. R.S.Budhwar, Addl. A.G. Haryana.

HARNARESH SINGH GILL, J. (ORAL)

Both these writ petitions can be conveniently disposed of by a common judgment since they raise the same issue as to the transfers of the petitioners to the place/preference of their choice. However, the facts are being taken from CWP-25776-2019.

Challenge in the present writ petition (CWP-25776-2019) is to the order dated 06.09.2019 (Annexure P-1) whereby the petitioner was transferred from G.S.S.S.Deeg, District Kaithal, to G.H.S.Chogawan, District Karnal.

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Learned counsel for the petitioner contends that the petitioner had served G.S.S.S.Deeg, for two years only whereas he was entitled to serve there for five years in view of Clause 5(iv) of the Transfer Policy dated 29.06.2016. He further contends that out of two sanctioned posts of Trained Graduate Teacher (TGT) Social Science, when one post was declared surplus, the petitioner, a regular employee, had been transferred, vide impugned order, but without adjusting the temporary employee having about 11 years of service at G.S.S.S.Deeg. He further contends that the wife of the petitioner is serving as a teacher at Govt. Primary School, Deeg and that in view of the instructions dated 26.09.1986 (Annexure P-7), a husband and a wife be posted at the same stations as far as possible.

On the other hand, learned State counsel, submits that the petitioner was adjusted at the aforesaid school in view of his own choice; that service of the guest faculty teachers has been secured under the Haryana Guest Teachers Service Act, 2019, and that being a case of rationalization of post, the post of the employee, who joined the service late, has to be rationalized.

I have heard the learned counsel for the parties.

Indisputably, the petitioner and his wife are the teachers working in the Education Department, and, therefore, a couple case. The Teachers Transfer Policy was notified firstly on 29.04.2016, revised on 29.06.2016, 05.06.2017, 10.11.2020 and 28.06.2021. Thereafter, vide order dated 16.07.2021 passed by the Addl. Chief Secretary to the Govt. Haryana, School Education Department, interpretation of various clauses of

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the Teachers Transfer Policy had been done to clarify some doubts and it was made clear that only female teachers whose spouses are working on regular basis in the Govt./semi-Govt. Organization(s), are entitled to the benefit under the category of 'Couple Case', As such, the petitioner being a male employee, is not entitled to the benefit under the category of 'Couple Case'.

Moreover as per the contents of reply, the petitioner has been adjusted at the school of his own choice after having his post rationalized on the basis of workload. However so far as the contention of the learned counsel for the petitioner that the temporary employee having about 11 years of service at G.S.S.S.Deeg, has not been transferred firstly, is not sustainable for the reason that service of a guest faculty has been secured under the Haryana Guest Teachers Service Act, 2019, which otherwise has not been impugned through the present petition.

Furthermore, who should be transferred where, is a matter for the concerned authority to decide. Unless the order of transfer is vitiated by *mala fides* or is made in violation of any statutory provisions, the court cannot interfere with it.

No other point has been urged.

In view of the above, this Court does not find any merit in both the petitions.

Dismissed.

09.03.2023
parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No