

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CM-3816-LPA-2023 in/and
LPA-1425-2023(O&M)
Date of decision: 19.10.2023

Pawan Kumar Sharma

... Appellant

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MS.JUSTICE RITU BAHRI, ACTING CHIEF JUSTICE
HON'BLE MR.JUSTICE AMAN CHAUDHARY

Present: Mr.Sanjiv Kumar Arya, Advocate, for the applicant/appellant

Mr.Deepak Balyan, Additional Advocate General, Haryana

AMAN CHAUDHARY, J.

CM-3816-LPA-2023

Notice of the application.

At the asking of the Court, Mr.Deepak Balyan, Additional Advocate
General, Haryana accepts notice on behalf of the respondents.

Having heard the learned counsel for the parties and in view of the
reasons enumerated in the application, the same is allowed. The date of hearing in
the main case is preponed to today.

CM-3622-LPA-2023

For the reasons stated in the application, the same is allowed and
delay of 2 days in filing the instant appeal is hereby condoned, subject to all just
exceptions.

LPA-1425-2023

1. The present intra-court appeal, under Clause X of the Letters Patent has been filed against the judgment dated 23.08.2023, vide which the civil writ petition preferred by the appellant came to be dismissed.

2. Learned counsel would contend that the request of the appellant to transfer him to a school near his residence, on the ground that he has to look after his aged ailing mother, was not considered by the Department, as though he was transferred to a school in the village within the District Jind but still it is far away being at a distance of 90 kms from his home. He has to change two buses and spend Rs.200/- per day for travel. This aspect has not been properly appreciated by the learned Single Judge.

3. Heard.

4. Pertinently, the appellant, working as a Guest Teacher of PGT (English), governed by the Guest Teacher Service Act, 2019, wherein Clause 5(3) provides that all the guest teachers are liable to serve at any place in the State of Haryana, based on which he was being transferred/adjusted at District Sirsa but on sympathetic grounds was allocated a school within Jind, his choice District, as is discernible from the order dated 16.06.2023 passed by the Director, Secondary Education, Haryana, however, is dissatisfied on account of still having to travel a distance as stated by him during the course of arguments.

5. We are not inclined to grant any indulgence in such facts, more particularly, when it is not for the employee to insist to transfer him/her and/or not to transfer him/her at a particular place, for it is the employer, who has to determine the same considering the requirement, as has been held in **Namrata Verma vs. State of U.P.**, 2021 SCC OnLine SC 3337, by Hon'ble The Supreme Court while dismissing the Special Leave to Appeal (C) No(s). 36717/2017, filed

against the order passed by High Court refusing to grant relief in case of request made for transfer.

6. In view of the above, the judgment passed by the learned Single Judge does not suffer from any illegality or perversity, which warrants any interference. The appeal, therefore, fails and is accordingly dismissed.

7. Since the main appeal itself has been decided, no orders are required to be passed in CM-3623-LPA-2023.

**(RITU BAHRI)
ACTING CHIEF JUSTICE**

**(AMAN CHAUDHARY)
JUDGE**

19.10.2023
gsv

Whether speaking / reasoned: YES / NO

Whether Reportable: YES / NO