

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

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**CWP No.24594 of 2023
Date of Decision : 20.11.2023**

*Jitender**..... Petitioner**versus**State of Haryana and another**..... Respondents*

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. V.P. Sangwan, Advocate, for the petitioner

TRIBHUVAN DAHIYA J. (ORAL):

This petition has been filed, *inter alia*, seeking a writ of *certiorari* to quash Clause 7-(b) Serial No.2 and 4 of the Teachers Transfer Policy 2023 (hereinafter referred to as 'the Transfer Policy') dated 9.8.2023, Annexure P-1. Further, a writ of *mandamus* directing the respondents to amend the said clause by providing equal points to male and female teachers, or allow the petitioner to join at a suitable place on posting by relaxing the aforesaid discriminatory provision.

2. It is contended that the Transfer Policy provides for award of points for transfer of teachers, working under the Department of School Education, Haryana. At Serial No.2 of Clause 7-(b), maximum of ten points have been provided for Special Category Female Teachers, i.e., widow/divorced/judicially separated female teachers/unmarried female teachers more than forty years of age. Whereas, at Serial No.4 of Clause 7-(b), maximum of five points have been provided for the Special Category of Male Teachers, i.e., widower who has not re-married and has

one or more minor children and/or un-married daughter(s). This is discriminatory, and the male teachers should also be given maximum ten points. The petitioner, who is a divorcee, aged forty two years and has not re-married, deserves equal treatment as is being given to special category female teachers.

3. Undoubtedly, the Transfer Policy provides maximum ten points for special category female teachers, as compared to five points for that category of male teachers, but it cannot be termed discriminatory *qua* the latter. Article 15 (3) of the Constitution provides for special treatment to women to overcome the disadvantages faced by them. The category in question relates to widow/divorcee/unmarried/judicially separated females, who are socially in a disadvantageous position as compared to that of males in that category, and consequently need preferential treatment for neutralising the disadvantages. Males belonging to this category cannot be said to be facing the hardship faced by females, in a largely male dominated society in the State. Therefore, in case the Transfer Policy provides more points to this category of female teachers, no exception can be taken to it, nor can the impugned clause be termed arbitrary or unreasonable on that basis.

4. In view thereof, there is no ground to entertain the petition.

5. Dismissed.

(TRIBHUVAN DAHIYA)
JUDGE

20.11.2023

Ashwani

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No