

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

111

CWP No.6334 of 2024 (O & M)
Date of Decision : 3.4.2024

Karamjeet Kaur and others *Petitioners*

versus

State of Haryana and another *Respondents*

2. CWP No.6835 of 2024 **2024:PHHC:045381**

Santosh Yadav and others *Petitioners*

versus

State of Haryana and another *Respondents*

3. CWP No.7171 of 2024 **2024:PHHC:045384**

Seema and others *Petitioners*

versus

State of Haryana and another *Respondents*

4. CWP No.6866 of 2024 **2024:PHHC:045390**

Anju Kumari and others *Petitioners*

versus

State of Haryana and another *Respondents*

5. CWP No.7286 of 2024 **2024:PHHC:045392**

Kavita Devi *Petitioner*

versus

State of Haryana and another *Respondents*

6. CWP No.7452 of 2024 **2024:PHHC:045396**

Priya *Petitioner*

versus

State of Haryana and another *Respondents*

CWP No.6334 of 2024 (O & M)	-2-	2024:PHHC:045292
<u>7. CWP No.7550 of 2024</u>		2024:PHHC:045397
<i>Rekha Rani and others</i>		<i>..... Petitioners</i>
	<i>versus</i>	
<i>State of Haryana and another</i>		<i>..... Respondents</i>
<u>8. CWP No.7575 of 2024</u>		2024:PHHC:045398
<i>Priyanka and others</i>		<i>..... Petitioners</i>
	<i>versus</i>	
<i>State of Haryana and others</i>		<i>..... Respondents</i>
<u>9. CWP No.7576 of 2024</u>		2024:PHHC:045402
<i>Meena and others</i>		<i>..... Petitioners</i>
	<i>versus</i>	
<i>State of Haryana and others</i>		<i>..... Respondents</i>
<u>10. CWP No.7578 of 2024</u>		2024:PHHC:045403
<i>Indu Bala and others</i>		<i>..... Petitioners</i>
	<i>versus</i>	
<i>State of Haryana and others</i>		<i>..... Respondents</i>
<u>11. CWP No.7579 of 2024</u>		2024:PHHC:045404
<i>Divya and others</i>		<i>..... Petitioners</i>
	<i>versus</i>	
<i>State of Haryana and others</i>		<i>..... Respondents</i>

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Tejpal Singh Dhull, Advocate
(in CWP-6334, 6835, 7171, 6866, 7452 and 7550-2024)
Mr. Parmod Parmar, Advocate (in CWP-7286-2024)
Mr. Amarjit Beniwal, Advocate, for
Mr. Vikram Sheoran, Advocate
(in CWPs-7575, 7576, 7578 and 7579 of 2024)
for the petitioners

Ms. Shruti Jain Goyal, Senior DAG, Haryana with
Ms. Tanushree Gupta, DAG, Haryana

TRIBHUVAN DAHIYA J.:

These petitions are being decided together since the same have been filed on similar facts claiming similar relief.

2. All the petitions have been filed, *inter alia*, seeking a writ of *certiorari* quashing the office order dated 16.3.2024, whereby the petitioners, who are primary teachers of 2017 Batch, have been allotted new schools pursuant to allocation of permanent districts; and a writ of *mandamus* directing the respondents to grant relaxation/weightage/extra marks to female primary teachers for the purpose of allotment of schools.

3. Briefly, facts relevant for adjudication of the matters are, the petitioners were appointed Primary Teachers (PRTs) pursuant to advertisement no.2 of 2012 dated 8.11.2012 (hereinafter referred to as '2017 Batch PRTs'). PRT is a District cadre post. The selection process pursuant to the advertisement remained embroiled in litigation before this Court, and it was finally settled by the Supreme Court in Civil Appeal No.7136 of 2022 titled *Vikas Kumar and others v. State of Haryana and others*, vide order dated 13.9.2022. The petitioners, like many other candidates, were given appointment during pendency of this litigation impugning their selection, and were temporarily allotted districts also. The selection process as well as the petitioners' appointment were finally upheld in *Vikas Kumar* case (*supra*), closing the entire litigation pertaining to selection of 2017 Batch PRTs with consent of learned counsel appearing for all the parties in all the matters, in the following

manner:

28. In the above facts and circumstances and taking into consideration the stand of the State of Haryana as communicated by its learned counsel, we are of the view that in the present case this litigation of more than a decade could be put to a quietus and the mammoth exercise of holding the selections for 9870 posts in the year 2012 be given its full benefit. We pass the following order:

(i) The total number of advertised posts i.e. 9870 to be filled up first from the selected candidates declared in the result dated 14.8.2014.

(ii) In the event, the selected candidates from the above category do not join, then the remaining vacancies shall be filled up from the list of wait-listed candidates declared alongwith successful candidates on 14.8.2014.

(iii) After filling up of the 9870 vacancies as provided above, the 2233 candidates who qualified the HTET after the cut-off date, sometimes in June, 2013 will be appointed as per their inter se merit enbloc below the above 9870 candidates.

(iv) In case, there still remain any wait-listed candidates from the wait-listed list of 14.8.2014, who could not be accommodated in the advertised posts of 9870, will be appointed enbloc as per their merit below the 2233 candidates.

(v) The seniority will be as per their merit position in their respective lists.

(vi) No dispute for seniority would be entertained of any candidate inter se different lists.

(vii) No claim for seniority or for any arrears would be entertained for any period not worked by the candidates of any of the above lists.

(viii) Salary would be paid for the period, for which such candidates have actually worked but not paid salary after due verification of their working both from the records and physically.

(ix) The 2012 selections will stand closed with the above arrangement.

(x) Exercising our powers under Article 142 of the Constitution, we increase the number of advertised posts beyond 9870 to accommodate the candidates as directed above and no more.

(xi) All the appeals are disposed of as directed above.

(xii) The impugned judgment shall stand modified to the aforesaid extent.

6. Another litigation relating to the process of permanent district allocation was pending before a coordinate Bench of this Court in CWP No.14553 of 2021 titled *Sandeep Kumar and others v. State of Haryana and another*, which was also decided by order, dated 02.06.2022, on the basis of consent of all the parties in the following manner:

Learned counsel for the parties across the board are *ad idem* that all the aforementioned writ petitions can be disposed of in terms of said affidavit dated 16.03.2022 and particularly in terms of para 10 to 13 thereof, which are reproduced as under:

"10. That after discussion with the Ld. Advocate General, the State Govt. has come to the conclusion that new transfer drive be started in respect of teachers appointed before 2011 by giving them, the clear cut vacancies, deemed/resultant vacancies and vacancies occupied by the Guest teachers/Adhoc teachers. It is pertinent to mention here that the posts occupied by the teachers appointed in 2017 and onwards in the districts beyond advertised posts at present will also be given to the teachers appointed before 2011 to avoid complications. In this respect, fresh options of 21 districts including new district Charkhi Dadri will be sought from the teachers appointed before 2011. This inter district transfer will be made in groups of teachers appointed in 2004, 2008 and 2011 under 'Cadre Change Policy' dated 06.09.2018 as per scores given in this policy and as per their options. Copy of 'Cadre Change Policy' 6.9.2018 attached as Annexure-R1. The petitioners in the present petition have also prayed for the same relief.

11. That then the process to allocate the districts to the teachers appointed in 2017 and onwards will be started. The total 8763 would be given to the teachers appointed in 2017 and onwards, which were advertised districts wise under advt. No. 02/2012 for Rest of Haryana Cadre for them for the allocations of the Districts. For example 400 vacancies are advertised for Ambala, only 400 teachers

will be allocated the Ambala District as per their merits, whether 600 teachers have given their options for district Ambala and vacancies are available. Further 445 vacancies advertised for Karnal and at present 200 regular teachers are working there and 145 clear cut vacancies are available but vacancies need 445, then 100 vacancies occupied by Guest/Ad-hoc in Karnal will be taken by treating them as vacant posts.

12. That it is worthwhile to mention here that in case of the teachers appointed before year 2011, there will be transfer under cadre Change Policy 2018, which will be as per the scores basis mentioned in the Cadre Change Policy 2018 and in the case of teachers appointed in 2017 and onwards there will be allocations of the districts as per their merits.

13. That then the process to allocate the districts to the teachers appointed in 2017 and onwards will be started only giving vacancies district wise as advertised in 2012 against Advt. No.02/2012 for Rest of Haryana cadre all the teachers appointed on 2017 and onwards will be asked to participate in the districts allocation process online to avoid complications and to end the dispute of junior and senior as the teachers appointed on 2017 and onwards had filed hundreds petitions for allocation the districts as per merits. In those writ petitions in compliance of the directions passed by the Hon'ble High Court, hundreds speaking orders were passed by mentioning that the allocation would be done as per merit. It is also decided that options of 6 districts may be sought for allocation the districts.

Keeping in view the above explained facts in the present short reply, it is requested that the present Writ Petitions may kindly be disposed of to avoid the complications and further litigations as the claim of the petitioners appointed before the 2011 and teachers appointed in 2017 and onwards has been accepted."

3.1. In these circumstances, after the litigation was over, the respondents issued general notice, dated 13.9.2023, *inter alia*, giving schedule for permanent district allotment for 2017 Batch PRTs. The challenge laid by some of the PRTs to compulsory participation for the Batch in this process/drive, was declined by this Court in CWP No.22244 of 2023 titled *Ravinder Rathee and others v. State of Haryana and another*, vide order dated 16.10.2023, holding as under:

8. In view of this factual background, it is apparent that the petitioners, being 2017 Batch PRTs, were never allotted a district permanently, as they were appointed pursuant to interim orders by Court during pendency of the litigation impugning their selection process; besides, the appointments were made before final seniority positions of the batch could be determined. This is the reason condition no.14 was included in the letters of appointment stipulating that they were temporarily being allotted the district which was subject to change. After the litigation questioning the selection process came to an end in terms of order, dated 13.09.2022, passed in *Vikas Kumar* case (*supra*), which upheld the selection and determined their seniority position finally, the respondents have undertaken this drive vide the impugned General Notice for permanent district allotment to 2017 Batch PRTs keeping in view their seniority positions and the options given. This could have been done only after the petitioners selection was upheld which necessitated their participation in it too. Therefore, there is nothing illegal or irregular either about condition no. 14 of appointment or the permanent district allotment drive, as it is being undertaken in the light of aforesaid order passed by the Supreme Court as well as the affidavit submitted by the respondents before this Court in *Sandeep Kumar* case (*supra*).

3.2. Accordingly, the petitioners participated in the allotment drive, and were allocated districts, along with other 2017 Batch PRTs. In continuation thereof, by considering the options for posting and the merit

positions, they were allotted schools temporarily in the new districts, vide impugned office order dated 16.3.2024.

4. Learned counsel for the petitioners have contended that no relaxation has been given to female teachers of 2017 Batch PRTs in the process of allotment of stations/schools, which is inhumane and discriminatory against them. The females among PRTs are entitled to special treatment for allotment of schools, as is being given to other female teachers under the Teachers Transfer Policy-2023 dated 9.8.2023. In support of this contention, reliance has been placed upon provisions of Article 15 (3) of the Constitution as well as law laid down by the Supreme Court in *Government of Andhra Pradesh v. P.B. Vijayakumar and another*, 1995 (4) SCC 520. Further, parity has been drawn with female Block Resource Persons (BRPs) of Haryana School Siksha Pariyojna Parishad (in short 'the *Parishad*') who have been given additional marks for allotment of Blocks-Clusters, as apparent from office order dated 13.9.2019. Still further, it is contended by the learned counsel that the impugned office order, dated 16.3.2024, has been passed without following proper procedure and is, accordingly, liable to be set-aside. In case the petitioners are allotted schools in the districts pursuant to this order, they will lose their entire seniority of about seven years in the districts they were earlier posted.

5. Heard.

6. As per facts apparent on record, the petitioners are 2017 Batch PRTs, which is a district cadre post. They were earlier allotted the districts temporarily, pending the litigation impugning their selection. After the selection was upheld by the Supreme Court in *Vikas Kumar* case (*supra*)

and in terms of the directions issued therein, the respondents initiated the process for permanent district allotment for the Batch vide general notice dated 13.9.2023. Challenge to compulsory participation for 2017 Batch PRTs in this district allocation process was rejected by this Court in *Ravinder Rathee* case (*supra*), vide order dated 16.10.2023. Accordingly, the petitioners, like other PRTs, participated in the process and were allotted permanent districts; in continuation of the process they, along with other PRTs, have now been allotted schools in their new districts, vide impugned office order dated 16.3.2024. The allotment has been made based upon the options submitted by PRTs and their merit position determined in terms of the order passed in *Vikas Kumar* case (*supra*). Evidently, the impugned order has been issued as a part of the process of allotment of permanent districts to the Batch, and the exercise will be completed after the allotment of schools within the districts. It cannot be interfered with nor any exception be taken to it on the basis of Teachers Transfer Policy-2023, which has been framed to carry out general transfer drive of teachers posted at a particular station/school for certain duration, as per schedule to be notified by the concerned Administrative Secretary from time to time. The participation in the transfer drive is based on the conditions notified and the available vacancies on the qualifying date; whereas, the instant process is a compulsory district and school allotment exercise for the 2017 Batch PRTs by adhering to the merit positions and considering the options submitted. Accordingly, the benefit/weightage/relaxation available under the transfer policy has no bearing on the allotment of schools to petitioners/PRTs in the newly allocated districts. The two are on distinct levels; allotment of schools to petitioners is to

assign them posting first time after allotment of district; and transfer from one station/school to another within the district is a subsequent exercise open to the petitioners along with its concomitant benefits and relaxations. Once the process is over, the petitioners, like other PRTs of the Batch, will be able to participate in the annual transfer drive under the transfer policy as and when notified. But the instant allotment of schools within the allocated districts, cannot be called in question on the basis of transfer policy which is alien to the exercise, its nature and purpose.

7. The reliance placed by learned counsel for the petitioners on the judgment in *P.B. Vijayakumar (supra)* or provision of Article 15 (3), is misconceived. The article is an enabling clause for the State to make special provision for women and children to improve their participation in all activities including employment. The judgment holds, this special provision entitles the State to take affirmative action or provide reservation for betterment of women. Accordingly, the judgment or the provisions of Article 15 (3) are not relevant to the issue of district and school allotment to female PRTs pursuant to their appointment in service. Further, the submission of learned counsel for the petitioners drawing parity with the BRPs of the *Parishad* is also not sustainable, since it is a registered society, financed by the State as well as Central Government, and its employees are appointed on contract basis as per Haryana School Siksha Pariyojna Parishad Employees Service Bye-laws, 2013. Allotting blocks to BRPs by the *Parishad* in terms of the Bye-laws, cannot have any bearing on the allotment of schools after permanent district allocation as per the merit determined and the options given. Lastly, the argument regarding loss of seniority etc. in the districts which were temporarily

allotted to the petitioners during the pending litigation, has already been negatived by this Court in *Ravinder Rathee* case (*supra*).

8. In view of the discussion, there is no merit in the petitions, and the same, accordingly, stand dismissed.

9. Pending miscellaneous application(s), if any, stands disposed of accordingly.

10. Photocopy of this order be placed on the connected case files.

(TRIBHUVAN DAHIYA)
JUDGE

3.4.2024
Ashwani

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No