

CWP No.8557 of 2024

[1]

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.:107

CWP No.8557 of 2024
Date of Decision: 19.04.2024

Ramesh Singh Ahlawat

..... PETITIONER(S)

*VERSUS*State of Haryana and another

..... RESPONDENT(S)

...

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA**PRESENT:** - Mr. Gaurav Tyagi, Advocate for the petitioner.

Mr.Sanjeev Kaushik, Addl.AG Haryana.

Tribhuvan Dahiya, J (Oral)

The petition has been filed, *inter alia*, seeking a writ of *mandamus* directing the respondents to act upon the representation dated 04.02.2024, Annexure P-6, which has been submitted by the petitioner pursuant to order dated 25.01.2024, Annexure P-5, passed by the first respondent whereby he was asked to submit a representation for his adjustment in nearby Colleges.

2. It is not disputed that the petitioner earlier approached this Court against his transfer order, dated 06.12.2023, by filing CWP No.28199 of 2023, which was dismissed as withdrawn with liberty to file a representation to the respondents to consider him for posting in a nearby College. The representation so filed was decided vide speaking order dated 25.01.2024, whereby keeping in view the complaints by girl students his request for posting in Government College for Women, Ambala City or Government College for Women, Karnal, was not accepted. It was, however, observed that in case he gives representation for his adjustment in any of the co-educational Colleges mentioned in order, where posts were vacant, his

case could be considered. The said order dated 25.01.2024 was challenged by the petitioner in this Court by filing another Civil Writ Petition No.3461 of 2024, which was also dismissed vide order dated 19.03.2024 observing as under:

2. As apparent on record, the petitioner earlier approached this Court against the impugned order of transfer, dated 06.12.2023, by filing Civil Writ petition No.28199 of 2023, which was dismissed as withdrawn with liberty to file a representation to the respondents to consider him for posting at a nearby College. Pursuant thereto, he filed a representation with the respondents which was decided vide impugned order dated 25.01.2024. Keeping in view the complaints against the petitioner by girl students and their interests, his request for posting either in Government College for Women, Ambala City or Government College for Women, Karnal, was not accepted. However, it was stated that posts are vacant in Government Co-Ed. College at Panipat, Karnal, Jagdishpura at Kaithal, and Ladana Chaku at Kaithal, and he can be considered for adjustment in any of these Colleges if he represents. Instead of representing, the petitioner has challenged the order.

3. Transfer is an incidence of service and there is nothing on record to show that the transfer order is *mala fide*, arbitrary or in violation of Rules. Besides, the petitioner's request for being transferred to a nearby place has been positively considered by the respondents vide the impugned order dated 25.01.2024, and he has been given option of adjustment in any of the Colleges mentioned therein. Accordingly, this Court finds no ground to interfere in the matter.

3. Not content with his earlier two unsuccessful attempts, the petitioner is approaching this Court third time, seeking adjustment in terms of the order, dated 25.01.2024, which was impugned in the earlier petition filed by him and the challenge was declined.

4. Learned counsel for the petitioner has relied upon observations in the order, dated 19.03.2024, that his request for being transferred to a nearby place was positively considered by the respondents, vide speaking order dated 25.01.2024, which would give him a right to seek the direction by filing the instant petition. The argument is misconceived, as instead of availing the opportunity in terms of the speaking order, the petitioner challenged the same on merits by filing CWP No.3461 of 2024, which was dismissed vide order dated 19.03.2024. Therefore, he willingly gave up the option to avail the opportunity of seeking adjustment in terms of the speaking order. Besides, while submitting the representation, dated 04.02.2024, giving consent to posting in Government College, Nigdhu, in terms of the speaking order dated 25.01.2024, he concealed the fact that challenge to the order had been declined by this Court. In this background, filing of the instant petition seeking a direction on the basis of same speaking order, is an abuse of the process of law and cannot be permitted.

5. Accordingly, the petition is dismissed with costs of Rs.10,000/- to be deposited by the petitioner in the Poor Patient Welfare Fund, PGIMER, Chandigarh, within a period of two weeks. Receipt thereof be placed on this case file within two weeks thereafter, failing which the matter be listed again.

(Tribhuvan Dahiya)
Judge

April 19, 2024
Meenu