

115

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-12791-2023

Date of Decision: 20.07.2023

Gursewak Singh and others

. . . . Petitioners

Vs.

State of Punjab and another

. . . . Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present Mr. Amrik Singh, Advocate
 for the petitioners.

Mr. Paramjit Batta, Addl. A.G., Punjab.

SANJEEV PRAKASH SHARMA, J.(Oral)

1. The petitioners by way of present Writ Petition has prayed as under:

“Civil Writ Petition under Article 226/227 of the Constitution of India praying for issuance of an appropriate writ, order or direction including a writ in the nature of Certiorari quashing the orders dated 08.08.2018 (Annexure P-2), 28.09.2018 (P-3), 03.10.2019 (P-4), 16.10.2019 (P-5), 04.11.2019 (P-6), 27.11.2019 (P-7), 26.12.2020 (P-8), 04.01.2021 (P-9), 05.05.2021 (P-10), 26.05.2021 (P-11), 06.09.2021 (P-12), 31.10.2021 (P-13), 12.07.2022 (P-14) and 14.09.2022 (P- 15) and such other similar orders qua the petitioners vide which the petitioners have been given the additional charge of the other schools while holding the charge of their present place of posting with the condition that they will not get any honorarium/ remuneration in lieu of additional charge while holding the charge on the current place of posting and letter dated 09.10.2019 (Annexure P-16) vide which it has been directed to work for 3 days in one school and for 3 days in another school as the such condition being patently illegal, arbitrary and against the rules governing the

general conditions of service of the petitioners and therefore, deserves to be quashed.

It is further prayed that this Hon'ble Court may be please to issue an appropriate writ order or direction including a writ in the nature of Mandamus directing the respondents to allow the petitioners to hold charge of the post of Clerks/Junior Assistants on their current places of posting only and the respondents be restrained from directing the petitioners to continue to hold additional charge of other schools along with the charge of their place of posting.

It is further prayed that this Hon'ble Court may be please to issue an appropriate writ, order or direction including a writ in the nature of Mandamus directing the respondents to pay due allowances and expenses to all the petitioners w.e.f. The date of their transfer/deployment as per Rule 2.17 of the Punjab Civil Services (General Conditions of Service) rules and chapter II of volume 3 of Punjab Civil Services (General Conditions of Service) rules as till date no such admissible allowance has been given and the petitioners have commuting and travelling at their own expenses without any reimbursement from the department.

It is further prayed that this Hon'ble Court may be pleased to issue any other appropriate writ, order or direction which this Hon'ble Court may deem fit and proper in the peculiar facts and circumstances of the present case.

It is further prayed that during the pendency of the present writ petition and subject to the final outcome of the same, the impugned orders qua the petitioners may kindly be stayed and the petitioners be allowed to continue to hold the charge of only one place of posting i.e. Current place of posting as present place of posting in the interest of justice.

AND/OR

Any other appropriate writ, order or direction that this Hon'ble Court may deem fit and proper in the peculiar facts and circumstances of this case.”

2. Learned counsel for the petitioners submits that the petitioners are being asked to work in different schools and are being given additional charge which ought not to be done. The petitioners' service conditions

are governed by the Punjab Civil Services (General Condition of Service) Rules, 1994 and once a Government servant is transferred from one post to the other, he is entitled for travelling allowance to cover such expenses.

3. He has taken this Court to para 2.61 of Volume 1 Part I as well as the Travelling Allowance Rules Volume 3 Chapter II to submit that additional allowance was required to be paid if the petitioners are asked to work in two different schools or more. The schools are mostly within the radius of 10 to 20 kms where the petitioners are required to perform their duties and due to this they are unable to concentrate at one place of posting. Orders are passed to perform duty at a particular school for 3 days or 2 days and in the other school for the other 2 days/3 days.
4. It is submitted that such action is clearly unjustified and the petitioners ought to be allowed to work only at a particular school. Learned counsel has also referred to an interim order passed by Co-ordinate Bench of this Court wherein this Court observed that the State of Punjab does not have dearth of qualified candidates for appointment to the post and instead of recruiting regular staff, they are burdening the petitioners to perform duties in two schools at a time without granting any extra benefits, and directed that they shall not be forced to perform additional duty at more than one school without paying extra remuneration. The said Writ Petition is pending consideration before this Court for final adjudication.
5. I have considered the submissions advanced by learned counsel for the petitioners, and also given by my thoughtful consideration to the interim order passed by the Co-ordinate Bench of this Court.

6. It is settled law that an interim order is not a precedent and this Court would not be bound by an interim order passed in another Writ Petition.
7. Admittedly, all the petitioners are working as clerks and assistants. They have been given charge of performing their duty at two schools falling in the same place. The orders specifically mentioned that they would not be entitled for any honorarium in lieu of additional charge. The orders have been passed for administrative reasons and considerations.
8. As regards granting additional allowances like mileage allowances are concerned, it has been provided under the Rules that mileage allowance can be claimed in cases where the duty is being discharged at another place from the place of posting is more than 32 kms as per Rule 2.10 of Volume 3 Chapter II, which reads as under:

“when a Government employee in receipt of permanent travelling allowance, travels on duty with proper sanction, beyond his sphere of duty, he may draw (a) mileage allowance by rail for the whole journey, and (b) mileage by road for such portion of the journey, including such part of it as is within his sphere of duty, as is in excess of 32 kilometers. This rule does not apply to a Government employee who travels beyond his sphere of duty in the course of journey from one place within that sphere to another such place. In addition, he may draw permanent travelling allowance for any day of his absence for which no mileage allowance is drawn.”
9. So far as travelling allowance is concerned, this Court finds that the claim of travelling allowance is wholly frivolous and misconceived. The petitioner has been posted to perform his duties at one place for a particular period and posted for performing his duties at both the places by a common order.

10. In view thereof, there is no occasion for granting travelling allowance to an employee.
11. The petitioner’s field of duties has been enlarged. The domain of empowering field of duties for any individual employee is exclusively an administrative function and there is no occasion for judicial interference in such aspects. No right of an employee is taken away nor it is a case where there is a bar under the Rules not to perform duty at two places at the same time. On account of administrative exigencies and paucity of staff, an employee can be directed to perform additional duties.
12. Taking into consideration the aforesaid aspects, the claim of the petitioners to restrain respondents from asking them to work at more than one school is wholly misconceived and is not acceptable.
13. There is no arbitrariness or illegality found.
14. The petitioners appear to be persons who do not want to work. If any of the petitioners does not want to work, the authorities can take appropriate action against them in terms of the Conduct Rules governing them. A Writ for such purposes would not lie and is held to be wholly frivolous.
15. Writ Petition is dismissed accordingly.

(SANJEEV PRAKASH SHARMA)
JUDGE

July 20, 2023

Mohit goyal

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

Yes/No
Yes/No