

PUNJAB AND HARYANA HIGH COURT

Before: Justice G.S. Sandhawalia

INDERJEET PAHWA V. STATE OF HARYANA

CWP No.15984 of 2021

09.09.2021

Teachers Transfer Policy, Para 9 (iv) - In the absence of any malafides or arbitrariness as such on the part of the respondents, there is no reason for this Court to interfere in the transfer drive.

Mr. Anil Kumar Sharma, for the petitioner. (The proceedings are being conducted through video conferencing, as per instructions.)

G.S. Sandhawalia, J. (Oral) - The petitioner in the present writ petition filed under Article 226 of the Constitution of India seek directions for quashing the action of the respondents in not giving the option Yes/No on the MIS portal, on the ground that he has only completed 2 years at Government Senior Secondary School, Balahi, District Kurukshetra. The said action is stated to be in violation of the Teachers Transfer Policy dated 29.06.2016 (Annexure P-1).

2. It is the case of the petitioner that he was only posted on 22.08.2019 (Annexure P-4/A) to the said post and therefore, he is not entitled to take part in the Teachers Transfer Drive, which is as such put in vogue, as per the schedule fixed by the Government on 15.07.2021 (Annexure P-9).

3. In the reply filed by the respondents it has been stated that the petitioner has been working in Zone-7 and has completed 18 years therein and, therefore, the persons who have completed 5 years in a particular zone are liable to compulsorily participate in the drive as per Para 8 Clause (i) b (i) read with Para 9 (iv). The details of his posting around Ambala and Kurukshetra have been given that he has been working from 1999 onwards in the said area. Initially he was posted at Ambala in Zone-5 then he was transferred to Karnal in the year 2000 in Zone-7 and, thereafter, to the Government Senior Secondary School, Amin, Kurukshetra in the year 2004 in Zone-7. Thereafter, he is remained at Government High School, Bhore Saidan, Kurukshetra from 06.08.2016 which was in Zone-4 and then he was transferred to Balahi. The relevant Clause of the policy reads as under:-

“Involuntary deemed vacancy: A post of any cadre (whether teaching or non-teaching), held by a teacher previously or presently in the School Education Department in a regular capacity for a period of five years or more on the qualifying date in the present zone of posting; or

A post occupied by a teacher given temporary manual posting due to non-availability of online transfer drive or technical problems or compulsion of administrative or litigational nature or on new appointment or on promotion or otherwise.”

4. It has further been stated that in Para 9 (iv) of the Teachers Transfer Policy, which reads as under:-

“Para 9 (iv) (Teachers Transfer Policy):-

Normally an employee has a service career of 35 years, so a teacher is supposed to serve a zone for maximum 5 years during his service career. In case of Zone-1, Zone-2, Zone-3 and Zone-4, if a teacher has completed five years of stay then such zone shall not be made available to him giving option of stations whether in online transfer drive or offline manual/temporary allocation. But in case of Zone-5, Zone-6 and Zone-7 the stations shall be made available to the teachers regardless of their stay in these zones as these three zones comprise of rural as well as far-off areas from urban centres.”

5. Similarly, Clause 6 reads as under:-

“6. Basic Principles:

The option once availed and confirmed shall be final and can be changed only under the provisions of this policy. Unless protected under a provision of this policy, every teacher completing 5 years stay/tenure in a particular school/zone of any district (s), whether independently in a district or cumulatively of more than one district, of the State shall be transferred.”

6. Keeping in view the above stand, this Court is of the considered opinion that in the absence of any malafides or arbitrariness as such on the part of the respondents, there is no reason for this Court to interfere in the transfer drive. This Court would not exercise its extra-ordinary writ jurisdiction if the respondents are acting within the parameters of the policy.

7. Resultantly, there is no merit in the present writ petition and the same is dismissed.