

IN THE HIGH COURT OF PUNJAB & HARYANAAT CHANDIGARH

C.W.P. No.2762 of 2012

Date of decision: May 14,2012

Kaushalaya Gupta

.....Petitioner

Versus

State of Haryana and others

.....respondents.

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Sunil Kumar Bhardwaj, Advocate for the petitioner.

Mr. Sunil Nehra, Senior Deputy Advocate
General, Haryana, for the respondents.

Augustine George Masih,J.(Oral)

The petitioner has approached this Court by filing this writ petition impugning the order dated 21.12.2011 (Annexure P/5) passed by respondent No.3 whereby transfer order of the petitioner from Government Senior Secondary School Badhawar, District Hisar to Government Senior Secondary School, Barwala Anaj Mandi,District Hisar has been cancelled and it was made clear that the petitioner will remain in Government Senior Secondary School,

Badhawar, District Hisar.

It is the contention of the Counsel for the petitioner that in a short span of three months, the petitioner has been transferred on four occasions and on each occasion she has been forced to face a situation where there is no vacancy available wherever she had gone to join. He has further submitted that frequent orders of transfer has been passed in the case of the petitioner in violation of the Government policy Annexure P/8 dated 28.4.2008 according to which an employee is not to be transferred before the completion of five years of service at a station. Accordingly, a prayer has been made for quashing of the impugned order.

Notice in this case was issued to the respondents.

In the reply which has been filed by the respondents, it has been stated that the petitioner was suspended vide order dated 31.5.2011 because of misbehaviour and non-attending the School regularly. She was reinstated in service vide order dated 16.9.2011 and posted at Government Middle School, Dayal Singh Colony, Hansi (Hisar) against vacancy but as per report of Headmaster Government Middle School, Dayal Singh Colony, Hansi (Hisar) there was no vacancy in that School as Guest Master was working against vacant post. Therefore, the petitioner was adjusted at Government Senior Secondary School Badhawar (Hisar) vide order dated 13.10.2011. It is further stated in the said reply that the petitioner requested that Government Senior Secondary School, Badhawar (Hisar) is far away from her residence and she may be adjusted Government Senior Secondary School Balsmand/Barwala

Anaj Mandi or Government Girls Senior Secondary School Balsmand (Hisar). On considering her request, she was again adjusted at Government Senior Secondary School , Anaj Mandi, Barwala (Hisar) against vacancy vide order dated 21.12.2011. The petitioner joined the said post. In the meanwhile an order was received from the Chief Minister of Haryana, according to which he had desired that Shri Surender Kumar, S.S.Master Government High School Mahobatpur (Hisar) may be transferred to Government Senior Secondary School, Anaj Mandi Barwala (Hisar) which was dealt on a separate file. Adjustment order of the petitioner issued on 20.10.2011 from Government Senior Secondary School Badhwar (Hisar) to Government Senior Secondary School, Anaj Mandi, Barwala (Hisar) was cancelled vide order dated 21.12.2011 and the petitioner was advised to join at her previous place of posting at Government Senior Secondary School Badhwar (Hisar) but Principal of Government Senior Secondary School Badhwar (Hisar) sought clarification about joining of petitioner against guest faculty. Necessary clarification has been issued by the District Education Officer, Hisar to the Principal Government Senior Secondary School, Badhwar (Hisar) to allow the petitioner to join. Request was also sent by the Principal to respondent No.4 to direct the petitioner to join in the School as address of the petitioner was not available with the Principal. Husband of the petitioner was also advised that his wife should join Government Senior Second School Badhwar (Hisar) immediately who visited the office of respondent No.4 in connection with joining of her wife but the petitioner did not respond to the said

transfer order.

On the last date of hearing when the case was taken up i.e. on 10.5.2012 a statement was given by the Counsel for the petitioner in the light of the reply filed by the respondents that the petitioner shall join Government Senior Secondary school, Badhawar, Hisar on 11.5.2012 and case was posted for further consideration for today.

At the time of the hearing, Counsel for the petitioner submitted that the petitioner is not willing to join the place of her posting at Government Senior Secondary School, Badhawar, Hisar. He had sought instructions from the husband of the petitioner who is present in Court who further reiterates that she will not be joining the Government Secondary School Badhawar as per order dated 21.12.2011(Annexure P/5).

In the light of the statement made by the Counsel for the petitioner in Court today, it appears that the petitioner is not interested in serving the respondents and joining the place of her posting. The frequent transfers which have been alleged to have taken place in the case of the petitioner, have been duly explained by the respondents in their reply which appears to be quite justifiable and, therefore, the grouse which has been projected by the petitioner does not appear to be fully correct. The contention that the transfer policy has been violated would not be made out in the present case as it was an administrative difficulty which was being faced by the respondents which led to the frequent transfers of the petitioner.

In the light of the above, the claim as made by the petitioner cannot be granted and thus, the present writ petition stands dismissed.

May 14,2012
sks

(AUGUSTINE GEORGE MASIH)
JUDGE