

(2016) 07 P&H CK 0122
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 13555 of 2016

Anju Bala & Ors.	Vs	APPELLANT
State of Haryana and others		RESPONDENT

Date of Decision : 14-07-2016

Acts Referred:

Constitution of India, 1950 — Article 14, 226

Citation : (2016) 3 SCT 703

Hon'ble Judges : Rajiv Narain Raina, J.

Bench : Single Bench

Advocate : Sandeep Goyat, Advocate. in CWP Nos. 13555, 13562 & 13661 of 2016, Ramesh Malik, Advocate. in CWP Nos. 13712 & 13716 of 2016, Rajeev Sharma, Advocate. in CWP No. 13603 of 2016, Jasbir Mor, Advocate. in CWP No. 13685 of 2016, for the Appellant;

Final Decision : Disposed Off

Judgement

Rajiv Narain Raina, J. (Oral) - This order will dispose of the above referred seven writ petitions as the pleas raised in all the writ petitions are similar and can conveniently decided by a common order. This is a transfer and posting matter.

Heard.

2. Notice of motion deserves to be issued on the point of deemed vacancy and whether it was correct in treating the petitioner as a teacher on deemed vacancy whereas the transfer policy requires minimum five years of service in one posting to fall within the definition.

Notice of motion.

3. On asking of the Court, Mr. Harish Rathee, Sr. DAG, Haryana accepts notice on behalf of the official respondents and waives service on them.

4. Learned counsel for the petitioner(s) to supply requisite number of paper-books in the office of Advocate General, Haryana in each case and one copy to

Mr. Rathee has been handed over in Court.

5. After hearing learned counsel, these petitions are disposed of with the following directions :-

1) The Director, Secondary Education/Director Elementary Education, Haryana will collect data from all schools in the various districts of Haryana with respect to length of posting of each teacher in the schools where employees like the petitioner(s) are posted.

2) After the data is collected and true position made available on file/website, then the number of deemed vacancies be applied for considering cases of transfer of those teachers who have exhausted 5 years tenure in a school. It is only after expiry of 5 years service at a particular station that the post stands declared deemed to be vacant even if person continues and will be open to transfer. Thereafter, final orders of posting and transfers may be passed.

6. This order is intended to bring about uniformity, parity and probity in decision-making process so that all teachers are treated on the principle of equality with reference to the transfer policy in the State of Haryana resulting from principle of "deemed vacancy". The result of the exercise be put in the public domain so that each teacher knows where he/she stands. This would obviate any apprehension in the mind of the petitioners that there has been an effort of some teachers suppressing facts regarding their tenure, of true facts which may not be available in public domain or in the notice of the transferring authorities having escaped their notice resulting in unnecessary litigation. If the transferring authority is in possession of full facts/data regarding "deemed vacancy" across State then as per transfer policy, transfers can be effected without any heartburn to anyone since the true position will be available on the official website of the department. If there are still any grievances remaining they can be sorted out easily and without delay. None of the aggrieved employees would need run from pillar to post and bring his case to light armed by facts. Otherwise persons would keep knocking the doors of the court canvassing a pure point of fact neither known to litigant nor court compelling interference and orders of interim stay. Meanwhile, status quo ought to be maintained to make room for fairness-inaction and equality of treatment.

7. With these observations and directions, the writ petitions are disposed of.

8. A copy of this order be given dasti to Mr. Rathee under the signature of the Bench Secretary for onward transmission and compliance of quarters concerned.

9. A photocopy of this order be placed on the file of each connected case.