
(2011) 11 SHI CK 0013
In the High Court Of Himachal Pradesh
Case No : CWP No. 6294 of 2011

Smt. Rajni Kang

APPELLANT

Vs

State of H.P. and others

RESPONDENT

Date of Decision : 04-11-2011

Acts Referred:

Citation : (2011) 11 SHI CK 0013

Hon'ble Judges : V.K. Sharma, J

Bench : Single Bench

Judgement

V.K. Sharma, Judge

1. The petition has been filed on the following prayers:-

(i). That a writ in the nature of certiorari or any other appropriate writ, order or directions may kindly be issued and the impugned order dated 23.5.2011 contained in Annexure P-13 may kindly be quashed and set aside.

(ii). That a writ in the nature of mandamus or any other appropriate writ, order or directions may kindly be issued directing the respondents more particularly respondent No.2 to transfer the petitioner to her parent District i.e. District Kangra where 210 posts of JBT Teachers are lying vacant and to grant seniority to the petitioner from her initial appointment in District Kangra.

2. In reply, the respondents have taken the following stand by way of preliminary submissions:-

1. That the respondents have not done any injustice to the petitioner while considering her for appointment to the post of JBT. The 194 candidates, which also includes the petitioner, trained from 04 Private Institutes, had been selected for two years JBT Training on the basis of a State level merit prepared by the H.P. Board of School Education, Dharamshala, District Kangra, which conducted the competitive examination. Since these candidates were admitted to the said training from State level merit, the respondent-State has now prepared a State

level category-wise merit list of these 194 candidates on the basis of marks obtained by them in the two years JBT training and reservation roster of the respective districts was also taken into consideration. There were 31 posts allocated to District Kangra, out of which only 05 seats were for the OBC General category. These 05 posts were allotted to the candidates, placed higher in the merit to the petitioner. The petitioner was placed at serial number 19 in the merit list of OBC General category and no post of this category was left in Kangra District, therefore, the petitioner could not be allotted Kangra District. The petitioner has been allotted Chamba District because in this district post of OBC General Category was available. A complete transparency was maintained in allocation of districts to the candidates by adopting the procedure approved by the Government vide their letter No. EDN-C.B (2)/2006-II, dated 5.4.2010. Copy of the same is annexed as Annexure R-1. It is further submitted that the Government has 1% quota policy for those teachers who want to get transferred from one district to another district. The petitioner may apply for inter district transfer under 1% quota policy, by adopting proper procedure as laid down by the Government so that the case may be considered under policy.

3. The learned counsel for the petitioner submits that the case of the petitioner is covered under judgment dated 20.10.2011 rendered by a Division Bench of this Court in CWP No. 7667 of 2011, Amit Thakur versus State of H.P. & others and the connected matters, text whereof is as under:-

1. The petitioners are JBT teachers. They are aggrieved since they are not posted either in their home Districts or in the District where they are interested to work by retaining it as their home District. It is pointed out that after appointing the petitioners, the teachers who are far down in the list got appointed in their home Districts, whereas the petitioners had to go to other Districts.

2. Learned Additional Advocate General and also the learned counsel appearing for the Board point out that once appointed, an employee can get transfer to home District or District of choice only against 1% quota. Though there cannot be any quarrel with that position or the principle, the facts of the instant cases travel on a different terrain altogether. It is a case of first posting and is not a case of transfer after few years of working in a particular District. According to the petitioners, vacancies are available either in their home District or where they want to work. If that be so, before the next recruitment and allotment is made operational, in case the petitioners could be accommodated

in their home District or the District which they choose as their home District, we do not think that any substantial injustice will be caused to anybody or would there be any violation of the guidelines on inter District transfer since the resultant vacancies are in any case to be filled up by the new recruits.

3. We are informed that the following is the vacancy position:

1.

Chamba.

70

2.

Kangra.

49

3.

Kinnaur.

15

4.

Lahaul & Spiti.

23

5.

Mandi.

55

6.

Shimla.

96

7.

Solan.

30

8.

Una.

88

4. There are no vacancies of JBT teachers in other Districts.

5. In the above circumstances, these writ petitions are disposed of as follows:

1. In the event of any of the petitioners making a representation for posting against any of the vacancies in the Districts, referred to above, the same shall be considered favourably and orders in that regard shall be passed within two weeks from the date of the receipt of a copy of the representation along with the copy of this judgment.

2. In case any of the petitioners makes a representation against any vacancy in

any District other than the home District, the same shall also be considered favourably and orders in that regard shall be passed within another two weeks. However, it is made clear and it shall be made clear in the orders also that the District they choose so shall be treated for all purposes as their home District in future.

3. It is however, made clear that in case in respect of any of the vacancies, referred to above, in the various Districts, recruitment process has already been set in motion by notifying those vacancies as on today, the notified vacancies shall not be tinkered in the process.

The writ petitions are disposed of, so also the pending applications, if any.

4. In view of the above, if on facts the case of the petitioner is covered under the judgment referred to hereinabove in CWP No. 7667 of 2011, Amit Thakur versus State of H.P. & others and the connected matters and the same has attained finality and has been implemented and the petitioner is similarly situate, she shall also be treated similarly without any discrimination and benefit of the said judgment along with consequential benefits, if any, shall be extended to her within two weeks from the date of production of copy of this judgment by the petitioner before the respondents/competent authority.

5. The petition stands disposed of in the above terms, so also pending application(s), if any.