



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Sr. No.278

CWP-20942-2024

Date of Decision: 08.04.2025

Abhey Singh and others

.... Petitioners

Versus

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Gaurav Chopra, Senior Advocate, with
Mr.Vardaan Seth, Advocate, for the petitioners.

Mr. Krishan K. Chahal, Addl. A.G. Haryana.

TRIBHUVAN DAHIYA, J. (ORAL)

The petition has been filed *inter alia* seeking a writ of *certiorari* quashing the order dated 06.09.2024, Annexure P-28, whereby the petitioners' applications for mutual transfer have been rejected in disregard of clause 1(vii) of the 'Online Transfer Policy for Teaching Staff' dated 24.07.2023 (for short, 'the Transfer Policy'). Further, a writ of *mandamus* has been sought directing the second respondent to allow and execute their mutual transfers in terms of the aforementioned clause.

2. As per facts of the case in brief, the Government notified Transfer Policy for Government employees (Lecturer in Civil Engineering, Computer Engineering, Electrical Engineering, Mechanical Engineering etc.) in Polytechnics. It prescribes that every Lecturer completing five years' continuous stay in a Polytechnic in the same town/city shall be transferred compulsorily. It also prescribes under clause 1(vii) that after completion of the process of online transfers, there will be option of mutual transfers which can be exercised within fifteen days therefrom. In terms of the Policy, the Government notified a transfer drive which culminated with issuance of



final transfer order of Lecturers dated 29.02.2024, Annexure P-6, whereby petitioner no.1 was transferred from B.K.N. Govt. Polytechnic, Narnaul, to Govt. Polytechnic, Hisar; petitioner no.2 was transferred from Govt. Polytechnic, Hisar, to B.K.N. Govt. Polytechnic, Narnaul. Similarly, petitioner no.3 was transferred from B.K.N. Govt. Polytechnic, Narnaul, to Govt. Polytechnic, Hisar; and petitioner no.4 was transferred from Govt. Polytechnic, Hisar, to B.K.N. Govt. Polytechnic, Narnaul. They joined service at their respective places of posting.

2.1. In terms of the provision under clause 1(vii) of the Transfer Policy which entitles the teachers to seek mutual transfer within fifteen days of completion of transfer process, petitioners no.1 and 2 submitted requests for mutual transfer vide representations dated 06.03.2024, Annexures P-7 and P-8, and petitioners no.3 and 4 submitted such representations of even date, Annexures P-11 and P-12. The same were not decided for no reason. They again submitted representations for the purpose, dated 28.03.2024, Annexures P-15 to P-18, but to no effect.

2.2. This forced them to file writ petition, CWP No.15693 of 2024 titled *Abhey Singh and others v. State of Haryana and another*, seeking a direction to the second respondent to act upon their requests for mutual transfer in terms of clause 1(vii) of the Policy. The only objection taken by the respondents was that, *the requests for mutual transfer were required to be acted upon only after completion of online transfer drive. Despite the final transfer order dated 29.02.2024, it could not be said that the transfer process was complete since there were certain petitions filed in this Court by some Lecturers, wherein order of status quo regarding their place of posting had been granted.*



2.3. The objection was rejected, and the petition was allowed with the following observations:

5. There is no dispute that the petitioners are entitled to seek mutual transfer in terms of sub clause (vii) of Clause 1 of the Online Transfer Policy, as also that on completion of the transfer drive, final transfer order dated 29.02.2024 was issued, whereby the petitioners were transferred to different places. They have made requests for mutual transfer within the stipulated period of fifteen days from the final transfer order, which was culmination of the transfer process. The only ground for not acting upon their representations is a few pending cases filed by some teachers of the Department, to which the petitioners have no concern, nor are they parties in those cases. Besides, mere pendency of litigation of some individual teachers can have no effect on the requests for mutual transfer made by the petitioners in terms of sub clause (vii) of Clause 1 of the Policy, nor can it be a ground to refuse or to keep the requests pending for decision.

6. In view thereof, the petition is allowed and the second respondent-Director General, Higher Education Department (Directorate of Technical Education) is directed to decide the petitioners' requests/representations for mutual transfer, dated 06.03.2024, in accordance with law, within two weeks of receiving a certified copy of this order.

2.4. In purported compliance of the directions issued by this Court to decide the petitioners' representations for mutual transfer in accordance with law, the second respondent conveyed to them vide letters dated 09.08.2024, Annexures P-24 and P-25, that their cases had been 'filed' by the competent authority after consideration. Therefore, the petitioners approached this Court by filing the instant petition challenging the said letters on the ground that the same were in violation of directions issued by this Court, as also clause 1(vii) of the Transfer Policy.



2.5. During pendency of the petition the second respondent passed a fresh detailed order, dated 06.09.2024, declining the petitioners' requests for mutual transfer, which has also been impugned herein. The order is to the following effect:

In pursuance to the Online Transfer Policy, the petitioners being covered under the policy, were transferred vide common order dated 29.02.2024. Thereafter, the petitioners submitted their representations dated 06.03.2024, requesting for mutual transfer. The request of the petitioners was considered by the competent authority and found that if the mutual transfers are carried out, the officers will be posted at the same station where they were working for a long period of time before issuing the transfer orders under Online Transfer Policy dated 29.02.2024 and it would defeat the very purpose of the Online Transfer Policy for which the same was framed.

Whereas, the main purpose of introducing the online transfer policy is to ensure equitable and need based distribution of Lecturers in a fair and transparent manner so as to protect the academic interest of students and to maximize job satisfaction amongst teacher and if the request of the lecturers of mutual transfer at the same place from where they were transferred is allowed then the main vision and intent of the policy will be defeated.

3. Learned senior counsel for the petitioners has contended that rejection of the petitioners' requests for mutual transfer on the ground that they have remained posted at the same stations for a very long time, is in violation of the Policy itself, clause 1(vii) whereof explicitly entitles them to mutual transfer within fifteen days of conclusion of the transfer drive irrespective of the duration of their posting at a particular station. *Secondly*, it has been contended that the said ground of rejection was not taken by the second respondent at the time of decision of the earlier petition filed by them



on the same issue which was allowed vide order dated 17.07.2024. On this account also, the objection is unsustainable. *Thirdly*, learned senior counsel contended that there was no occasion for the second respondent to reject the petitioners' prayer of mutual transfer as it had been made strictly as per provisions of clause 1(vii) of the Policy. The reasons put forth in rejecting the prayer are unwarranted and not germane to the issue, nor do they form any valid basis in the light of explicit terms of the Policy.

4. *Per contra*, learned State counsel contends that longer stay of the petitioners at one station in the concerned Polytechnics disentitles them to mutual transfer. Accordingly, their requests were rightly rejected vide the impugned order. He, however, is not in a position to dispute that there is no stipulation in the transfer policy which bars the Lecturers having longer stay from seeking mutual transfer.

5. Submissions made by learned counsel for the parties have been considered.

6. As apparent on record, there is explicit provision in the Transfer Policy which permits mutual transfer amongst lecturers within fifteen days of completion of the transfer drive, which reads as under:

1. (vii) After the completion of the process of online transfers, there will be option of mutual transfers. This option can be exercised within 15 days of the completion of online transfer process. The mutual transfers shall be valid for a period of five years and in case, one of the incumbents gets retired, the other incumbent shall have to participate in the next online transfer drive irrespective of the timeframes.

6.1. Undisputedly, the transfer drive concluded with issuance of the transfer order dated 29.02.2024, and the petitioners made requests for mutual transfer within fifteen days therefrom, on 06.03.2024. The only ground of



rejection of their requests is longer stay in their respective places of posting from where they have been transferred vide order dated 29.02.2024, though there is no such stipulation in the Transfer Policy which bars Lecturers having longer stay from seeking mutual transfer. Therefore, there is no basis to state, as recorded in the impugned order, that acceptance of mutual transfer requests made by the petitioners will ‘defeat the very purpose’ or ‘main vision and intent’ of the Policy. In fact, the reasoning is in violation of unambiguous terms of the Policy. The stated purpose of introducing the Policy is ‘to ensure equitable and need-based distribution of Lecturers in a fair and transparent manner so as to protect academic interests of students and to maximise job satisfaction amongst teachers’; clause 1(vii) whereof itself permits the Lecturers to seek mutual transfer within fifteen days of completion of the transfer drive. Resultantly, there is no basis to contend that allowing mutual transfer will defeat the intent of the Policy; rather, it is in line therewith. And there is nothing to indicate even *prima facie* that continuance of the petitioners at the stations they have been posted will not be conducive to academic interests of the students, or that it will act counter to job satisfaction amongst teachers. Thus, this Court has no doubts in concluding that the reasoning recorded by the second respondent to reject the petitioners’ requests for mutual transfer is for extraneous reasons. It is a colourable exercise of power to circumvent the terms of the Policy and defeat their rights.

7. Further, it cannot be lost sight of that the ground of rejection, as mentioned in the impugned order, was not taken by the second respondent when the petitioners earlier approached this Court in the first round of litigation by filing CWP No.15693 of 2024, which was allowed directing the second respondent to decide their requests for mutual transfer in accordance



with law. Instead of doing so and deciding the requests as per terms of the Transfer Policy, the impugned decision was taken on the basis of unreasonable and perverse reasoning which is an infraction of unequivocal terms of the Policy, as discussed herein before. The relevant sub-clause (vii) of clause 1 entitling the Lecturers to mutual transfer whereunder the requests were required to be considered, was not even referred to in the impugned order. Therefore, it is unsustainable in the eyes of law.

8. Still further, apparently the requests for mutual transfer submitted by the petitioners, vide letters dated 06.03.2024, are as per the requirements of sub-clause (vii) of clause 1. It is not the respondents' case that the same violate any of the terms of the Policy or suffer from any irregularity. Accordingly, there is no reason why the requests should not be accepted.

9. In view of the discussion, the petition is allowed by directing the respondents to accept the petitioners' requests for mutual transfer, and issue posting orders accordingly within one week of receiving a certified copy of this order. The petitioners are also held entitled to costs of the petition quantified as ₹50,000 for each one of them which shall be paid by the respondents within the period stipulated above.

08.04.2025
Maninder

(TRIBHUVAN DAHIYA)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : Yes