DIRECTORATE OF ELEMENTARY EDUCATION HARYANA, PANCHKULA

Order No. 17/42-2022ESHM (1)

Dated Panchkula the, 02-12-2022

Whereas, the present CWP No. 19893 of 2022 - Sarla Devi and another V/s State of Haryana & Manother for quashing the impugned transfer order dated 28.08.2022 (P-11 and P-11 A) whereby petitioners are transferred in utter violation of order dated 24.08.2021 (Annexure P-2) as well as Transfer Policy dated 01.06.2017 (Annexure P-3), in the interest of justice. Further prayed that during the pendency of present writ petition impugned transfer order dated 28.08.2022 (Annexure P-11 and P-11 A) may kindly be stayed and to direct the respondents to exclude the petitioners from General Transfer Drive.

The instant writ petition came up for hearing before the Hon'ble High Court on 06.09.2022. The operative part of the order passed by the Hon'ble High Court is as under:-

"Notice of motion.

Mr. Harish Nain, AAG, Haryana accepts notice on behalf of the respondent-State and submits that the grievance being raised by the petitioners is specific to their claim and in case the said grievance is raised by the petitioners before the competent authority by way of filing an appropriate representation, the same will be considered and an appropriate speaking order on the same will be passed after giving due consideration within a period of seven days from the date of receipt of said representation.

Learned counsel for the petitioners submits that the petitioners intend to approach the respondents raising their grievance by way of filing a representation and keeping in view the statement of the learned State counsel, the present petition may kindly be disposed off having been not pressed any further but prays that keeping in view the fact that the respondents have agreed to look into the grievance of the petitioners, the petitioners be allowed to continue at their present place of posting so that in case their claim is accepted by the respondents, they do not suffer harassment of shifting base again.

Learned State counsel opposes the said prayer of the learned counsel for the petitioners.

Keeping in view the above, the present petition is disposed off having been not pressed any further.

It is directed that the respondents will abide by the undertaking as recorded hereinabove and further till the representations filed by the petitioners are decided by the respondent-department, in case the petitioners have not been relieved so far, they be allowed to continue at their present place of posting so that in case claim of the petitioners is accepted by the respondents, they do not suffer harassment or prejudice. It is made clear that in case claim of the petitioners is not accepted by the respondents, the petitioners will be bound to comply with the order of transfer so as to join at their new place of posting.

In case, after the decision of the respondents, the petitioners feel aggrieved, they will be at liberty to avail an appropriate remedy available with them for the redressal of their grievance".

In the compliance of above said direction, the representations of Claimant No. 1 & 2 dated 08.09.2022 have been examined carefully. It is found that the claimant No. 1 i.e. Smt. Sarla Devi who is working as ESHM at GGSSS Panipat (Shiv Nagar) (2055), District Panipat had participated in Transfer Drive which was opened from



25.08.2022 to 28.08.2022. as the post of Elementary School Head Master was declared surplus due to rationalization. The claimant no. 1 had participated in the Transfer Drive and had opted more than 2 options for her transfer and she has got the station/school of her preference at Sr. No. 2 that is Govt. Senior Secondary School Dhadola Distt. Panipat on the basis of merit points i.e. 66.9123 on her MIS profile.

It is pertinent to state here that the claimant no. 2 i.e. Sh. Rahul Dahiya is working at GSSS Nagal Kalan Sonipat had also participated in the Transfer Drive and had opted more than 1 option for his transfer and he has got the station/school of his preference at Sr. No. 1 that is Govt. High School Nangal kalan Distt. Sonipat on the basis of merit points i.e. 57.5781 on his MIS profile.

As per Transfer Policy, 2016 amended as on 01.06.2017 it was mandatory for both the claimants to participate in the Transfer Drive and it is clarified that the respondent department has not exercised its jurisdiction beyond the said policy. Rule 9 Clause XII of Teacher Transfer Policy, 2016 is as under:

"(xii) Teachers declared surplus from a station as part of the rationalization of posts shall compulsorily participate in the transfer drive. In case of their non-participation in transfer drive from any reason their salary from such posts shall be stopped and the department shall be at liberty to post them at any station across the state in the schools having high deficiency of teachers".

The post of ESHM was declared as surplus in the aforementioned Schools where the claimants are working due to the rationalization of posts as per guidelines Memo No. 4/33-2011 SE(4) dated 13.08.2022. An Administrative decision was taken that only one administrative head will be posted in a school for optimum utilization of available teachers. Being a Senior Secondary School, there is already an administrative head i.e. principal. The said decision was taken that ESHM will be offered eligible vacancy of TGTs of their respective subject in Senior Secondary School and High School on the basis of merit.

In view of the context explained above, it is worthwhile to state here that the post of ESHM has been declared surplus in GGSSS Panipat (Shiv Nagar) (2055), District Panipat being a Senior Secondary School and TGT of that subject i.e. Home Science in said school has been transferred who has secured more points than the claimant No. 1 on MIS Portal. With regard to claimant No. 2, it is stated that the post of TGT mathematics at GGSSS Nangal Kalan (3643), Block and District Sonipat has been declared surplus due to rationalization as there is only one post of PGT/Lecturer (Mathematics) being a Senior Secondary School, hence it was mandatory for claimant No. 2 to participate in Transfer Drive and was transferred to GHS Nangal Kalan (3644) Block Rai, Distt. Sonipat, against a vacancy of TGT Mathematics. The claimant No. 2 has raised the grievance that as per workload at least 2 posts of Mathematics teacher must

be vacant i.e. 1 post for 36 periods in a week and second for remaining 24 periods. It is stated that as per guidelines Memo No. 4/33-2011 SE(4) dated 13.08.2022 for PGTs, ESHMs TGTs, C&V, DPE, it was proposed that they shall be given maximum 6 periods in a day i.e. total 36 periods per week and Second post will be provided after 40 periods. Hence, due to surplus of post and better administration it was mandatory for both the claimants to participate in the Transfer Drive as per Rule 9 clause xii of existing Teacher Transfer Policy.

In view of the above narrated facts, I, undersigned is of the considered view that the claim of the Claimants/ Representationists is not maintainable and hereby rejected accordingly.

I order accordingly.

(Mahabir Parsad) Additional Director Administration, O/o Director Elementary Education, Haryana, Panchkula..

Regd.

To

1. Smt. Sarla devi [091318], ESHM, aged about 51 years, wife of Ranbir Singh, resident of 379, Huda 18, Panipat, Haryana.

2. Sh. Rahul Dahiya [091318], TGT Mathematics aged about 37years, S/o. Sh. Rajan Dahiya resident of House No. 12 A Atlas Road Teachers Colony, Sonipat, Haryana

Endst. No.: Even

Dated Panchkula the, 02-12-2022

A copy of this order is forwarded to following for information and necessary action:

1. The Principal Accountant General (A&E) Haryana, Chandigarh.

2. District Elementary Education Officer, Panipat & Sonipat.

3. Sh. Sanchit Punia, Advocate, Punjab & Haryana High Court, Chandigarh.

A. IT Cell. To upload the Order on website.

Superintendent ESHM for Director Elementary Education Haryana, Panchkula 21.11.2022

DIRECTORATE OF ELEMENTARY EDUCATION HARYANA, PANCHKULA

Order No. 17/8-2022 ESHM (1)

Dated Panchkula the, 02 -12-22

Whereas, the present CWP No. 4076 of 2022 titled as Permander Singh & Others V/s State of Haryana & Others was filed by the petitioners praying therein for issuance of a writ in the nature of Mandamus directing the respondents to promote the petitioners to the post of ESHM from the date juniors/similar situated to the petitioners have been promoted alongwith all consequential benefits with 18% interest by order dated 24.08.2019 (Annexure P-10) as the petitioners are also fully eligible having all qualification to be promoted as per the Haryana School Education (Group C) State Cadre Service Rules, 2012 (Annexure P-1). In view of the Notification dated 13.11.2019 (Annexure P-5).

The said petition came up for hearing before the Hon'ble High Court on 03.03.2022 and the following order was passed.

"This matter is being taken up for hearing through video conferencing due to outbreak of the pandemic, COVID-19.

Petitioners, who are working as TGT Math and SS Teachers in the Education Department, have filed this writ petition with the grievance that their prayer for promotion has not been considered while their juniors have been promoted vide order dated 24.08.2019, Annexure P-10.

Learned counsel for the petitioners submits that petitioners having been appointed in the year 2003, are senior to the persons promoted on 24.08.2019. Petitioners, it is stated have served legal notice dated 06.10.2021, Annexure P-12, in this respect, but to no avail.

Notice of motion.

Mr. Kuldeep Tewari, Addl.AG., Haryana, accepts notice on behalf of the respondents. Advance copy of the writ petition stands supplied.

At this stage, learned counsel for the petitioners restricts the prayer for a decision of legal notice dated 06.10.2021, Annexure P-12, submitted by the petitioners, in a time bound manner.

Learned counsel for the respondents does not raise any serious objection to the restricted prayer.

Keeping in view the limited prayer addressed, facts and circumstances of the case but without expressing any opinion on the merits thereof, this writ petition is disposed of with a direction to the competent authority, to decide legal notice dated 06.10.2021, Annexure P-12 filed by the petitioners by passing a speaking order, within three months from the date of receipt of certified copy of this order."

In compliance of the direction issued by the Hon'ble High Court, the legal notice dated 06.10.2021 (Annexure P-12) of the claimants has been examined in depth and the detail of all the claimants alongwith their respective seniority is as under:-

	Sr.	Name & Employee	Current place of	Category	Qualification	Seniority
1	No.	ID and	posting			No. as per
		Designation				Seniority
						dated
						01.01.2017
Ì	1.	Permander Singh	GMS Rajpura		B.SC 46.71%	3120



	(ID No. 015143), Math Master	(1078) Distt. Palwal	General	28.07.1992 B.Ed 91.11% 26.09.1993	
2.	Rameshwer (ID No. 015255), Math Master	GMS Lohagarh (5391) Distt. Palwal	BC-A	B.A. 47.17% in 08.11.1995 B.Ed 53.56% in 02.11.1994	3221
3.	Narender (ID No. 058311), Math Master	GMS Balai (5956) Distt. Palwal	General	B.Sc 47.10% in 18.07.1991, B.Ed 47.56% 05.09.1992	1906
4.	Kishan Chand (ID No. 015257), SS Master		BC-A	B.A 47.14% in 19.06.1988, B.Ed 50.67% 30.03.1992	3394
5.	Mahesh Chand (ID No. 058291), Math Master			B.Sc 47.58% in 29.06.1987, B.Ed 49% 17.08.1988	1893

After examining the entire record, it has been found that all the claimants are having B.A./B.Sc & B.Ed. but all the claimants have less than 50% marks in B.A/B.Sc., which is not a requisite qualification for promotion on the post of Elementary School Headmaster as per Haryana School Education (Group C) State Cadre Service Rules, 2012. It is worthwhile to mention here that the department has made promotions on the post of Elementary School Head Master on the basis of seniority list TGT/Master Cadre as on 01.01.2017 by which TGT/Master had been promoted Seniority upto 4500 (General) and upto 10000 reserved category.

In the view of above, it is significant/emphatically stated that the Claimants are belonging to General and BC-A Category respectively and they are at Seniority No. 3120, 3221, 1906, 3394 and 1893 respectively in seniority list TGT/Master Cadre as on 01.01.2017. The claimants do not meet the requirement of qualification i.e. BA/B.Sc with 50% alongwith B.Ed. eligibility mentioned in the rules applicable. For reference and the rules/eligibility criteria applicable for the promotion from TGT/Master cadre to Elementary School Head Master are reproduced below:-

No. Posts quali and expe		Academic qualifications and experience, if any, for direct recruitment on contract basis	Academic qualification and experience, if any, for appointment other than by direct recruitment on contract basis
1	2	3	4
1	Elementary School Head Master		By promotion:- (i) B.A/B.Sc. and 2-year Diploma



in Elementon, Education : OR
in Elementary Education; OR B.A./B.Sc. with at least 50% marks and 1-year Bachelor in Education (B.Ed.); OR B.A./B.Sc. with at least 45% marks and 1-year Bachelor in Education (B.Ed.), in accordance with the NCTE (Recognition Norms and Procedure) Regulations issued from time to time in this regard; OR Senior Secondary (or its equivalent) with at least 50% marks and 4 year Bachelor in Elementary Education (B. El. Ed.); OR Senior Secondary (or its equivalent) with at least 50% marks and 4 year Bachelor in Elementary Education (B. El. Ed.); OR Senior Secondary (or its equivalent) with at least 50% marks and 4 year B.A. Ed.; OR B.A./B.Sc. with at least 50%
Senior Secondary (or its equivalent) with at least 50% marks and 4 year B.A. Ed.; OR
(Special Education); (ii) 5 years experience in regular
Punjabi Teacher/ TGT,
(iii) Atleast 3 weeks in-service training in administrative and accounts module.

In the context explained above, the case of the claimants in the instant writ petition has been examined and it has been found that the claimants are not eligible for promotion as per Service Rules, 2012 as not having essential qualification for promotion. On the basis of present circumstances, the claim of the claimants has been rejected as per Service Rules, 2012 in above terms.

I order accordingly.

(Mahabir Parsad)
Additional Director Administration,
O/o Director Elementary Education,
Haryana, Panchkula.

Regd.

To

- Sh. Parmender Singh [015143], Math Master, aged about 52 years, S/o. Gurdev Singh posted at GMS Rajpura(1078), Block & Distt. Palwal. resident of # A/5. 4 Marla New Colony, Palwal.
- 2. Sh. Rameshwar [015255], Math Master, aged about 52years, S/o Bihari Lal, posted at GMS Lohagarh (5391), Distt Palwal. Resident of #197, Parjapat Mandir, Rundhi (139)Dighot, Palwal.

- 3. Sh. Narender [058311], Math Master, aged about 52 years, S/o. Amar Chand, posted at GMS Balai (5956) Distt. Palwal. Resident of VPO Deeghot, Palwal.
- 4. Sh. Kishan Chand [015257], SS Master, aged about 56years, S/o. Bihari Lal, posted at GMS Nangal Brahman (5942), Distt. Palwal. Resident of H.No. 198, Near Harijan Chaupal, Rundhi (139), Dighot, Distt. Palwal.
- Sh. Mahesh Chand [058291], Math Master, aged about 57 years, S/o. Kirpa Ram, posted at GMS Islamabad(5957), Distt. Palwal. Resident of Tikri Brahman, Distt. Palwal

Endst. No.: Even

Dated Panchkula the, 02 - |2 - 2022

A copy of this order is forwarded to following for information and necessary action:

- 1. The Principal Accountant General (A&E) Haryana, Chandigarh.
- 2. District Elementary Education Officer, Palwal.
- 3. Sh. Ashutosh Kaushik, Punjab & Haryana High Court, Chandigarh.

4. IT Cell. To upload the Order on website.

Superintendent, ESHM
Directorate of Elementary Education
Haryana, Panchkula 18.11.2022

DIRECTORATE OF ELEMENTARY EDUCATION HARYANA, PANCHKULA

Order No. 17/05-2022 HRM-III/ESHM (1)

Dated Panchkula the, 02-12-2022

Whereas, the present CWP No. 2441 of 2022 titled as Pawan Kumar & Others V/s State of Haryana & Others was filed by the petitioners praying therein for directing the Respondent to promote them to the post of ESHM from the date their juniors (as specified in para 17 of Petition) have been promoted w.e.f. 04.09.2017 and to grant all consequential benefits with arrear with 18% interest per annum from due date till date of actual payment in the light of the judgment passed by this Hon'ble Court in Bahadur Singh V/s State of Haryana in 2008 (3) SCT 836 (Annexure P-1). Further prayed for quashing the order dated 14.10.2021 (Annexure P-13).

The said petition came up for hearing before the Hon'ble High Court on 14.07.2022 and the following order was passed.

"CM-9895-CWP-2022

As prayed for, application is allowed.

Annexures P/15 to P/18 are taken on record.

CWP-2441-2022

Learned counsel for the petitioners argues that in the present petition, the challenge is to order dated 14.10.2021 (Annexure P/13) by which, the claim of the petitioners was declined by the respondents being not covered under the rules governing the service but, after passing of the said order, the rules governing the service have been amended retrospectively, which amendment to the Rules allow the claim of the petitioners.

Learned counsel for the petitioners submits that after the amendment of the rules governing the service, the petitioners have again filed a representation dated 04.07.2022 (Annexure P/18), which is still pending consideration with the respondents and prays that the respondents may kindly be directed to decide the same, keeping in view the new development, which has come into being, in a time bound manner by passing an appropriate speaking order.

Notice of motion.

Mr. Harish Nain, AAG, Haryana, who is present in the Court accepts notice on behalf of the respondent-State and raises no objection in deciding the representation dated 04.07.2022 (Annexure P/18) filed by the petitioners in a time bound manner by passing an appropriate speaking order. In view of the request made, without expressing any opinion on the merits of the case or the claim being made by the petitioners in their representation, respondent No.2 is directed to decide the representation dated 04.07.2022 (Annexure P/18) by passing a speaking order within a period of eight weeks from the receipt of copy of this order.

Present writ petition stands disposed of.

CM-9896-CWP-2022

As prayed for, application is allowed."

In compliance of the direction issued by the Hon'ble High Court, the representation dated 04.07.2022 of the claimants has been examined in depth and the detail of all the claimants alongwith their respective seniority is as under:-

Sr.	Name & Employee	Current place of	Qualification	Date of	Seniority
No.	ID and Designation	posting		joining	No.
1.	Sh. Pawan Kumar	GMS Bodhi, Thanesar	B.A. (59%)	30.04.1998	900
			in 2007		
			Shastri/O.T.		
2	Shriram Sharma (ID	GMS Gharola, Ladwa	B.A. (62.1%)	25.03.2000	1547
	No. 031745),	(6185) Distt.	in 2008		
	Sanskrit Teacher	Kurukshetra	Shastri/O.T.	l II	
3.	Sh. Narender	GGSSS Bhuna,	B.A. (50%)	23.10.2000	1715
	Kumar (ID No.	Fatiahabad (3268)	in 1999		
	044456) Sanskrit	Distt Fatehabad	Shastri/O.T.		
	Teacher				



Sh. Sukhdev Singh (ID No. 031691) Sanskrit Teacher	B.A. (52.66%) in 2005 Shastri/O.T.	14.05.1998	1190
	Shastri/U.1.		

After examining the entire record, it has been found that all the claimants are not having B.Ed. as per Haryana School Education (Group C) State Cadre Service Rules, 2012. It is worthwhile to mention here that total sanction post of ESHM from C&V Sanskrit Teacher (by promotion) is 395. It is also pertinent to mention here that regular appointees as Sanskrit Teachers upto dated 08.06.2007 have claimed their promotion vide order dated 04.09.2017 in the Court cases. It is also submitted that separately no promotion cases were invited and separately no promotion to the post of Elementary School Head Master from C&V Sanskrit cadre has been made by the department till today.

That due to the aforesaid order dated 04.09.2017 number of Sanskrit Teachers were promoted on the post of Elementary School Head Master whereas the total sanctioned post of Sanskrit Teacher is only 395 and number of petitions are pending before the Hon'ble High Court in which the employees have claimed for promotion from the Sanskrit Teacher on the post of ESHM.

The case of claimants had been examined as per Service Rules, 2012 prior to recent amendment dated 15.03.2022. On examination it was found that the claimants were not eligible for promotion to the post of Elementary School Head Master (ESHM) as per Haryana School Education (Group-C) State Cadre Service Rules 2012 (prior to recent amendment).

It is pertinent to mention here that as per Haryana Civil Services Rules, 2012, Appendix-B (Rule-7) the qualification for the promotion to the post of ESHM is as under:

Sr. No.	Designation of Posts	Academic qualifications and experience, if any, for direct recruitment on contract basis	Academic qualification and experience, if any, for appointment other than by direct recruitment on contract basis
1	2	3	4
1	Elementary School Head Master		By promotion: (i) B.A/B.Sc. and 2-year Diploma in Elementary Education; OR B.A./B.Sc. with at least 50% marks and 1-year Bachelor in Education (B.Ed.); OR B.A./B.Sc. with at least 45% marks and 1-year Bachelor in Education (B.Ed.), in accordance with the NCTE (Recognition Norms and Procedure) Regulations issued from time to time in this regard; OR Senior Secondary (or its equivalent) with at least 50% marks and 4 year Bachelor in Elementary Education (B. El. Ed.); OR Senior Secondary (or its equivalent) with at least 50% marks and 4 year B.A. Ed.; OR B.A./B.Sc. with at least 50% marks and 1-year B.Ed. (Special Education); (ii) 5 years experience in regular capacity as Hindi/Sanskrit/Punjabi Teacher/ TGT, (iii) Atleast 3 weeks in-service training in administrative and accounts module.



It is pertinent to mention here that recently vide notification dated 15.03.2022 the following amendment has been made at Appendix B, against serial number 1, under column (4), for item (i) existing twice, the following entry shall be added at the end, namely:-

"OR

Shastri with atleast 50% marks from a recognized university and Shiksha Shastri/ Language Teachers Course (L.T.C.)/ Oriental Training (O.T.) in Sanskrit conducted by the Haryana Government or an equivalent qualification recognized by Haryana Education Department".

As per the above mentioned amendment, the case of claimants will be examined by the committee and if they are found eligible as per existing Service Rules, sanctioned posts, seniority list dated 15.01.2019 and other grounds, then the promotion case of claimants will be considered accordingly on merits. It is further submitted that a letter of personal hearing dated 19.01.2022 was issued by the answering department to all Elementary School Head Master promoted from Sanskrit Teachers alongwith other similar junior Sanskrit Teachers before issuing reversion order who were promoted in the compliance of various direction issued by the Hon'ble High Court. The said employees/Sanskrit Teachers approached to the Hon'ble High Court against the letter dated 15.01.2019 and the Hon'ble High Court was pleased to order status quo till the next date hearing i.e.21.11.2022 which was vacated by the Hon'ble High Court by disposing of CM No. 16719-20-CWP/22 in CWP No. 2200 of 2022 Shakti Dhar Sharma and others Vs. State alongwith other tagged writ petitions.

In the context explained above, the fresh promotion cases of Sanskrit Teacher for promotion to the post of Elementary School Head Master will be called and considered after issuing the Show Cause Notice and the reversion order to all such Elementary School Head Master (promoted from Sanskrit Teachers) who are not falling in the seniority list dated 15.01.2019 as per sanction post and existing Service Rules which will take some time.

In the context explained above, the case of the claimants in the instant writ petition will be examined for promotion on the post of Elementary School Head Master in the light of existing Service Rules after issuing the reversion order to the junior Sanskrit teachers who were promoted on the post of Elementary School Head Master on the basis of date of appointment. On the basis of present circumstances, the claim of the claimants is being kept on hold in above terms.

I order accordingly.

ld.

(Mahabir Parsad) Additional Director Admn. Director Elementary Education, Haryana, Panchkula

Regd.

To

 Sh. Pawan Kumar [031683], TGT Sanskrit, aged about 52 years, S/o. Satpal, posted at GMS Bodhi, Thanesar (6398) Distt. Kurukshetra. Resident of H.No. 1954 Sector-5 Distt. Kurukshetra.

- Sh. Shriram Sharma [031745], TGT Sanskrit, aged about 51 years, S/o. Ram Chander, posted at GMS Gharola, Ladwa (6185) Distt. Kurukshetra. resident of House No 489 Mohan Nagar Distt. Kurukshetra
- 3. Sh. Narender Kumar [044456], TGT Sanskrit, aged about 50 years, S/o. Richhpal Sharma, posted at GGSSS Bhuna, Fatiahabad (3268) Distt Fatehabad. Resident of village Mochiwali PO Chobana, Bhuna, Distt. Fatehabad.
- 4. Sh. Sukhdev Singh [031691], TGT Sanskrit, aged about 50 years, S/o. Nathi Ram, posted at GMS Kishangarh Thaneswar (6472) Distt. Kurukshetra. Resident of H.No. 1530 Sector -3, Distt. Kurukshetra.

Endst. No.: Even

Dated Panchkula the, 09-12-2022

A copy of this order is forwarded to following for information and necessary action:

- 1. The Principal Accountant General (A&E) Haryana, Chandigarh.
- 2. District Elementary Education Officer, Kurukshetra & Fatehabad.
- 3. Şh. Ashutosh Kaushik, Punjab & Haryana High Court, Chandigarh.

4. IT Cell. To upload the Order on website.

Superintendent ESHM
Directorate of Elementary Education
Haryana, Panchkula 25.11.2022