

**HARYANA GOVERNMENT  
SCHOOL EDUCATION DEPARTMENT  
CHANDIGARH**

**ORDER No.1/97-2016-eGov.**

**DATED: 21.7.2016**

In exercise of the powers conferred under para 15 of the Teachers Transfer Policy, 2016, I, P.K. Das, IAS, Additional Chief Secretary School Education Department, do, hereby, clarify the various provisions of the policy as discussed hereunder:

1. Upon framing of the new Transfer Policy issued on 29.6.2016 the Department has embarked on the transfer exercise of Teachers of various cadres. In the first go, PGTs/Lecturers have been taken up for transfer. Subsequently, other cadres of teachers would also be considered for the present transfer exercise through online software. The department has already collected exhaustive details in respect of all the teachers on the MIS Portal in a very transparent and safe mode. By completing the Personal as well as well Service profile of the teacher on MIS Portal the various points have been calculated to be shown and known as "My points". These "My points" are the merits which enable a teacher to be entitled for a particular school of his choice in an environment of similar choices given by his/her colleagues. The Department has also asked for the options/ willingness for transfer from the teachers to assess the total vacancies (deemed as well as actual). As the department knows the actual vacancies in advance but the deemed vacancies can be calculated only after knowing the willingness of a teacher to leave that particular post so the department carried out a survey of "Yes or No" options for a sufficiently long period affording effective opportunity to all interested teachers. Subsequently, the department asked the teachers to express their preferences for zones as well as schools through MIS Portal so that final allocation of stations could be made to the teachers participating in the general transfer drive as expeditiously as possible to protect the academic interest of the students/children.
  - 1.1 In the meanwhile some teachers have approached the Hon'ble High Court challenging various aspects of the policy as well as some decisions of the department which have been taken to implement the policy. The issues raised before the Hon'ble High Court are enumerated in the following paras.
    - 1.1.1 Presently the Department is considering all those teachers who have completed five years of stay in a zone in any capacity like JBT, TGT, PGT whether as guest teacher or regular teacher or on any non-teaching post of the school education department to be on a deemed vacant post. In

50

8

other words, if a teacher was recently posted in a particular school just one year back and such teacher happened to have been posted earlier also in the same zone and that period of stay was more than four years, then the total period of stay of such teacher in the same zone would come out to be more than five years in such a zone. Clearly, the stay of a teacher whether at a stretch at a particular station or in breaks in the same zone would be counted to pronounce a vacancy as deemed one.

1.1.2 The deemed vacancy definition has been given in para 7(i)(b) is reproduced as under:-

*“Deemed Vacancy:- A post occupied by a teacher for a period of Five Years or more on the qualifying date; or a post occupied by such teacher who has given option for transfer from his/her school under special dispensation given in para-8 (xii) below but has not completed tenure of five years in that particular school.”*

The intention of the department is also reflected in para 8(iii) of the Policy which states that *“In case of teacher has 35 years of service left, then he/she gets to select 7 zones in order of his/her preference .....”* This broadly implies that a teacher would normally stay only for five years in a particular zone. Every school is necessarily located in some zone so if the definition of deemed vacancy states that a tenure of a post occupied in a particular school would be counted for deeming it vacant or not then it also subsumes in its meaning that *“a teacher cannot overstay a period of five years in a particular zone”*. Here a *particular school* necessarily means a *particular zone*. But some petitioners are deriving their individual convenient meaning from the definition of deemed vacancy thereby they are treating the *“a post”* [Para 7(i)(b)] as being in a *particular school* as against a *particular zone*. In this way those teachers who found their posting during the last less than five years are counting the stay time as that of a particular school only. If such meaning is accepted then these teachers would become exempted from the definition of *“deemed vacancy”*. But such a meaning would clearly go against the spirit of the transfer policy which is premised on the rational of five years stay in each zone for all teachers so that no school could go teacherless and the students of the schools which are located in the countryside may also benefit from the availability of teachers.

Therefore, while calculating deemed vacancy under para 7(i)(b) the following paras should also be read together:-

Para 4(i) 5(v), 8(i), 8(ix), 8(x) and para 14.

cdy

JK

1.1.3 As a result of above analysis, it is clarified that the para 5(v) may be read as “Unless protected under a provision of this policy, every teacher completing 5 years stay/tenure in a particular school/zone of any district(s), whether independently in a district or cumulatively of more than one district, of the State shall be transferred”

“A Post” of para 7(i)(b) be read as any post of any cadre held by a teacher previously or presently in the School Education Department in a regular capacity.

At the same time, it is also unambiguously specified that the stay in a particular zone, on any post like JBT, TGT, PGT on any non-teaching post in a regular capacity in the school education department would be counted to calculate the overall tenure in the zone under consideration.

2. Some of the teachers have challenged that their stay in a particular zone is less than five years by any calculation yet they are being forcibly transferred being posted in particular school after 31.3.2016 by virtue of order No 15/11-2016-HRL(3) dated 28.06.2016 (CP/1). In this context, it is notable that this order was issued for providing a fair play opportunity to all teachers who happened to be transferred/posted after 31.3.2016. As we know the policy is to be effected for the current academic session 2016-17 and all transfer orders are to be passed only through application software giving due weightage to the “My Points” of a teacher in a fair and transparent manner. Those teachers, who happened to be manually posted by default on such stations where some other teachers of higher “My points” wanted to be posted, would necessarily be seen as favoured ones by the teachers of higher weightage, if any. Therefore, paving for a free and fair play and a transparent trial/ counselling through the application software is in the interest of overall satisfaction of the whole teaching fraternity. Some of the teachers who are posted on favoured stations, though such teachers might not have enough “My points” to entitle them to such stations might be feeling aggrieved if they are asked to participate in the transparent trial of the general transfer exercise. Therefore, the order dated 28.6.2016 providing for the mandatory participation in the online transfer exercise is based on a sound policy and reasoning to ensure equitable, demand based distribution of teachers/ heads to protect academic interest of students and optimize job satisfaction amongst its employees in a fair and transparent manner. Accordingly, the above order was issued.

3. At the same time some other provisions are also needed to be clarified.

Self

JK

3.1 Para 8(x) specifically deals with zone 1 and 2 stay of a teacher. Upon reading this para it gives out an unwanted, unintended meaning to some persons that the teachers posted in zone 1 and 2 shall be taken out of these zones only when they *opt* for such movement irrespective of their total tenure in these zones. In this connection, it is very pertinent to note that the intention of the Department was unmistakably to shift the teachers who have been managing their postings in these zones for a long time. As a result of such management, the schools located in other zones normally went teacher-deficient or teacherless. This created a very skewed teacher distribution in the State resulting into the vitiation of academic atmosphere in a whole host of schools. By putting a cap of five years stay in these zones the Department has strived and aspired to balance the teacher distribution and to afford opportunity to other teachers who might have been disfavoured or disadvantaged, for one reason or other, to opt for schools located in these two zones. Unless the teachers who are continuously keeping their stay in these zones due to non-availability of a fair and transparent policy are posted out of these zones, vacancies would not be available for other teachers who may have enough "My points" to find posting in these areas/zones. Obviously para 8(x) was made part of the policy to increase the element of fairness in the teacher distribution in the schools.

3.1.1 In the light of above reasoning and analysis para 8(x) may be read as under:-

"The teachers who have already completed the span of five years' stay in zone 1 or/and 2, shall be treated to be on a deemed vacancy on the qualifying date of transfers. However, teachers having one year or less in retirement shall be exempted from this condition."

3.2 Further, the para 7(ii) provides for proportionate distribution of the unavoidable vacancies across the schools. Here, it is stated that due to rationalization, blocking of posts of PGTs in some high schools and there being a policy for re-employment of retired teachers and availability of guest teachers, the proportionate blocking of vacancies does not seem to be a practical proposition. The present para was intended to strike at the non-availability of teachers in some schools due to concentration of teachers in other schools/zones. As the department has other methods for providing teachers to these schools through promotions, direct recruitment, through reemployment of retired teachers, availability of guest teachers, so there does not appear to be any possibility of any school going teacher-less when we are already putting in place the teachers through above methods in a right earnest. Furthermore, it is

also pertinent that the department is coming up with a calendar of recruitment which would be providing for filling up of anticipated vacancies in advance.

3.2.1 Accordingly, it is proposed that during the transfer drive no vacancies except the ones blocked under the parameters of rationalization, be hidden from the aspiring teachers to get posted in these schools.

3.3 As regards note 3 under para 6(iii)(b), the restriction of keeping 50% such teachers in a particular school is creating difficulty in giving stations to a significant number of teachers. Simultaneously the school is also being deprived of a teaching faculty even when the department has that teacher on its rolls.

3.3.1 Therefore, it is clarified that only those teachers, who score total 20 points be treated to be teachers of special category and the restriction of note 3 under para 6(iii)(b) would apply only to them.


P.K. DAS, IAS  
Additional Chief Secretary to Govt. Haryana  
School Education Department  
Haryana, Chandigarh

**Endst. No.1/97-2016-e.Gov.**

**Dated: 22.07.2016**

A copy is forwarded to the following for information and necessary action:-

1. Chief Secretary to Government Haryana, Chandigarh.
2. Additional Chief Secretary to Government Haryana, Finance and Planning Department, Chandigarh.


  
(Virender Singh, HCS)  
Joint Secretary to Govt. Haryana  
School Education Department  
Haryana, Panchkula

**Endst. No.1/97-2016-e.Gov.**

**Dated: 22.07.2016**

A copy is forwarded to the following for information and necessary action:-

1. Director General, Information and Public Relations, Haryana, Chandigarh.
2. Director Treasuries and Accounts Department, Haryana, Chandigarh.

  
(Virender Singh, HCS)  
Joint Secretary to Govt. Haryana  
School Education Department  
Haryana, Panchkula

**Endst. No.1/97-2016-e.Gov.**



**Dated: 22.07.2016**

A copy is forwarded to the following for information and necessary action:-

1. Secretary Board of School Education, Haryana, Bhiwani.
2. Director SCERT, Haryana, Gurgaon.

3. All District Education Officers.
4. All District Elementary Education Officers.
5. All Principal DIETs/BITEs/GETTIs.

This may be brought to the notice of all concerned working under their control.


  
(Virender Singh, HCS)  
Joint Secretary to Govt. Haryana  
School Education Department  
Haryana, Panchkula  


**Endst. No.1/97-2016-e.Gov.**

**Dated: 22.07.2016**

A copy is forwarded to the following for information:-

1. Principal Secretary to Chief Minister, Haryana, Chandigarh
2. OSD to Chief Minister, Haryana, Chandigarh,.
3. Secretary/Education Minister, Haryana, Chandigarh
4. Sr. Secy./Additional Chief Secretary School Education, Haryana, Chandigarh.
5. PA/Director Secondary Education, Haryana, Panchkula.
6. PA/Director Elementary Education, Haryana, Panchkula.

  
(Virender Singh, HCS)  
Joint Secretary to Govt. Haryana  
School Education Department  
Haryana, Panchkula  
