

(2022) 11 SHI CK 0053
In the High Court Of Himachal Pradesh
Case No : Civil Writ Petition No. 8200 Of 2022

Ashraf Ali

APPELLANT

Vs

State Of H.P

RESPONDENT

Date of Decision : 28-11-2022

Acts Referred:

Citation : (2022) 11 SHI CK 0053

Hon'ble Judges : Tarlok Singh Chauhan, J;Virender Singh, J

Bench : Division Bench

Advocate : Vinay Sharma, Ashok Sharma, Rajinder Dogra, Shiv Pal Manhans,
Vinod Thakur, J.S. Guleria

Final Decision : Dismissed

Judgement

Tarlok Singh Chauhan, J

1. Aggrieved by the order of transfer, the instant petition has been filed for grant of the following substantive reliefs:

"i. Issue a writ of mandamus directing the respondent authorities to decide the representation dated 17.10.2022 i.e. Annexure P- 2 of the petitioner within time bound manner in the interest of justice and fair play.

ii. Issue a writ of mandamus directing the respondent authorities to adjust the petitioner at Government Degree College Nahan, District Sirmour, H.P, wherein the incumbents is going to be retired on 30.11.2022 and Government Degree College Paonta Sahib, District Sirmour, wherein the incumbents is going to be retired on 31.5.2023 in the interest of justice."

2. The sole ground raised in the instant petition for assailing the order of transfer is that the petitioner even on his promotion to the post of Superintendent Grade-I, cannot be compelled to join in a hard area, as he has crossed the age of 55 years. As per the Transfer Policy, the person who has crossed the age of 55 years, the transferee cannot be posted in a hard area. The arguments at the first

blush appears to be attractive, but when examined in detail, the same holds no water. The reason being that in terms of the "Comprehensive Guiding Principles-2013" for transferring the State Government employees that were formulated after examining and following the various judgments of this Court, the following categorization of the Stations have now been drawn in Clause 15 of the Transfer Policy i.e. "A", "B", "C", "D" & "E" for the purpose of regulating the transfers of employees:

Category 'A' relates to soft station;

Category 'B' to rural areas;

Category 'C' to difficult/hard areas;

Category 'D' to tribal areas and

Category 'E' to most difficult areas.

It has further been provided in Clause 15 itself that the State Government employees, who have crossed the age of 55 years are exempted from posting in categories 'C', 'D' and 'E' categories of stations except by promotion, meaning thereby in normal circumstances, Government employees, who have crossed the age of 55 years are exempted from posting in categories 'C', 'D' and 'E'. However, in such exception these principles do not apply where an employee is promoted.

3. In the instant case, admittedly the petitioner has been promoted and only thereafter sent to the transferred station. Once that be so, then no exception can be taken to the order of transfer, as the same has been effected strictly in accordance with the Comprehensive Guiding Principles-2013.

4. Accordingly, we find no merit in the instant petition and the same is dismissed in limine. No order as to costs. Pending application(s), if any, also stands disposed of.