
(2021) 05 SHI CK 0156

In the High Court Of Himachal Pradesh

Case No : Civil Writ Petition No. 3048 Of 2021

Dharminder Kumar

APPELLANT

Vs

State Of H.P. And Another

RESPONDENT

Date of Decision : 24-05-2021

Acts Referred:

Citation : (2021) 05 SHI CK 0156

Hon'ble Judges : Tarlok Singh Chauhan, J;Chander Bhusan Barowalia, J

Bench : Division Bench

Advocate : Sanjeev Bhushan, Rajesh Kumar, Ashok Sharma, Vinod Thakur,
Hemanshu Misra, J.S. Guleria

Final Decision : Disposed Of

Judgement

Tarlok Singh Chauhan, J

1. The petitioner has completed his normal tenure of service in the hard and difficult area at Dodra Kwar Region in District Shimla and thus is

entitled to be transferred to a soft station of his choice.

2. The learned Advocate General has placed on record the instructions dated 22.05.2021 wherein it is conceded that the petitioner is eligible for being

transferred to one of the stations of his choice, but cannot be transferred as it will be extremely difficult as other Ayurvedic Pharmacists are

performing very important duties like monitoring the condition of Home Isolated

Patients and providing essential medical help to them. It is apt to reproduce the relevant portion of the instructions which reads as under:-

“The petitioner, though has become eligible to be transferred to one of the stations of his choice yet keeping in view the essential services of

Ayurvedic Pharmacists and spread of Covid-19 pandemic at this stage, it would

not be appropriate, in larger public interest, to consider his representation. Ayurveda Pharmacists are performing very important duties like monitoring the condition of Home Isolated Patients and providing essential medical help to them. It is also submitted that in Rohru Sub Division, out of 35 sanctioned posts of Ayurvedic Pharmacists, 12 posts are lying vacant, due to shortage of Pharmacists. The post of Ayurvedic Medical Officer is also vacant at AHC Dodra and if the petitioner is transferred out, this AHC will become non-functional as only one Dai, one Class IV and One Sweeper will be left. Therefore, it will not be appropriate to transfer out the present petitioner as it will not only be difficult to provide substitute but will also break continuity as the new incumbent will take time to join, adjust and understand new area which may hamper essential services being provided to Covid patient.

The process to fill up 200 posts of Ayurvedic Pharmacist is progress and the counseling process of candidates will be started soon.â??

3. To say the least, we find the instructions handed over by the respondents to be vague and fanciful. If the other Ayurvedic Pharmacists can perform the essential services as stated above, so can the petitioner.

4. We really wonder why the official respondents are reluctant to transfer the Pharmacist similarly situated like the petitioner to the hard and difficult area. Are not the residents of the hard and difficult areas entitled to essential health services is a question which the State has to obviously bear in mind.

5. Therefore, in the given facts and circumstances, we direct the respondents to consider the case of the petitioner for transfer to any of the five stations of his choice which shall be spelt out by him in his representation to be made within one week and thereafter the consequential order of

transfer shall be passed within next two weeks and simultaneously the Ayurvedic Pharmacist(s) having the longest stay in any station of Himachal

Pradesh shall be posted in place of the petitioner in accordance with the Policy.

6. The petition stands disposed of so also the pending application(s), if any.

For compliance, to come up on 14.06.2021.