
(2010) 12 SHI CK 0269
In the High Court Of Himachal Pradesh
Case No : LPA No. 236 of 2010

Inder Pal

APPELLANT

Vs

State of Himachal Pradesh and Others

RESPONDENT

Date of Decision : 31-12-2010

Acts Referred:

Citation : (2010) 12 SHI CK 0269

Hon'ble Judges : Kurian Joseph, C.J;V.K. Sharma, J

Bench : Division Bench

Judgement

V.K. Sharma, J.—The present Letters Patent Appeal arises out of judgment dated 30.9.2010, passed by the learned Single Judge of this Court, whereby, the writ petition being CWP No. 3078 of 2009, filed by the Appellant herein challenging his transfer from Sarkaghat to Basantpur in district Mandi, was dismissed.

2. The impugned order of transfer dated 24.8.2009, was challenged by the Appellant (Petitioner) mainly on the grounds that it was against the declared policy of the State Government laying down, inter alia, the normal tenure of three years and private Respondent No. 4, who belongs to Sarkaghat, has been transferred to his native patwar circle again against the Govt. policy. At the time of hearing of the writ petition another ground was also pressed into service to the effect that since the Petitioner was detailed for census duty, he could not have been transferred mid way during such operations.

3. In so far as the first contention is concerned, admittedly the Petitioner was transferred to Sarkaghat in March, 2008 and has been moved from there to Basantpur in August, 2009, i.e within less than one and half year. However, the fact remains that the distance between Sarkaghat and Basantpur is only 8 K.M.

4. Now while advertng to the second contention, it would be seen that though this ground was averred vide para 4 of the writ petition, yet it appears that the same was not highlighted during hearing of the writ petition. However, it is apparent from Annexure R-3 to the writ petition that native patwar circle of

private respondent No. 4 is Binga in Sub Tehsil Dharampur, which is at a distance of 30 KM from Sarkaghat. At the time of hearing of the present appeal, whereas the Petitioner has brought on record extract of family register dated 10.11.2010, wherein, the Petitioner and his family is shown to be resident of Nagar Panchayat Sarkaghat, private Respondent No. 4 has placed on record extract of family register dated 19.11.2010, according to which the entry with regard to the Petitioner and his family has been struck off from Nagar Panchayat Sarkaghat and entered in the concerned Gram Panchayat w.e.f 15.11.2010, i.e. during pendency of the present appeal, but the fact remains that he is still a voter of Jagsai, Tehsil and Post Office Sarkaghat.

5. With regard to the third contention regarding census duty, suffice it say that copies of the relevant orders in this regard, which are available in the writ file would go to show that not only the Petitioner but Respondent No. 4 has also been detailed for such duty within their respective patwar circles.

6. On an appraisal of the impugned judgment dated 30.9.2010, it is manifest that the contention raised by the Petitioner did not find favour with the learned Single Judge for the reasons that "since the Petitioner has only been shifted 8 kilometers from his original place of posting, the letter and spirit of the order prohibiting transfers, when a person is appointed on census duties, is not violative of any law" and " I fail to comprehend as to how employees are claiming vested rights to serve in a particular place for a particular length of time.

7. In view of the above and taking into consideration the facts and circumstances of the case and on an overall view of the matter we do not find any lawful cause or basis for any interference with the impugned judgment dated 30.09.2010. Accordingly, the appeal is dismissed. Pending CMP(s), if any, shall also stand disposed of.