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**(2010) 08 SHI CK 0137**  
**In the High Court Of Himachal Pradesh**

Lal Chand Prasad

APPELLANT

Vs

State of H.P. and Others

RESPONDENT

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**Date of Decision :** 27-08-2010

**Acts Referred:**

**Citation :** (2010) 08 SHI CK 0137

**Hon'ble Judges :** Kurian Joseph, C.J.;Rajiv Sharma, J

**Bench :** Division Bench

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## Judgement

Kurian Joseph, C.J.—The writ petitioner is, unfortunately, before this Court in three writ petitions. Since the conclusion has been confirmed in all the litigations, the writ petitioner is present himself before us. Having heard learned Counsel for the petitioner, Mr. G.R. Palsra, Advocate, and the writ petitioner himself, on facts in extenso and having heard Mr. Rajiv Jiwan, learned Counsel appearing for the Federation and Mr. Ankush Dass Sood, learned Additional Advocate General, we are of the view that it is only in the interest of the respondent-Federation, State and the petitioner himself to give quietus to whole disputes in all these cases. With the above background, in our mind, we may refer to short facts.

2. Petitioner was initially transferred from Chakkar to Nahan in the year 2001. That was challenged successfully by the petitioner before the Tribunal. The matter was pursued by the Corporation before this Court. This Court ultimately disposed of the writ petition in the year 2009 vacating the order of costs, imposed on the federation. In the meanwhile, the petitioner was transferred in the year 2006 from Chakkar to Totu. That was challenged by the petitioner before the Tribunal. The Tribunal on 11.1.2007 passed an order to maintain status quo. It has been subsequently clarified by the Tribunal itself by its order, dated 8.8.2007 in Contempt Petition (M) No. 210 of 2007 that status quo meant only that the petitioner stood relieved as per order, dated 14.12.2006. According to the petitioner in view of the pendency of the writ petition, filed by the Federation (CWP No. 1109 of 2002), challenging the order of Tribunal, setting aside the transfer from Chakkar to Nahan, the petitioner could not have been

transferred to any other place. It is very difficult to accept that submission since the transfer that was interfered with by the Tribunal, is only the transfer from Chakkar to Nahan. That was not such mean that the petitioner cannot be transferred to anywhere else. It is also relevant to note that after five years of the transfer from Chakkar to Nahan only Federation transferred the petitioner in the year 2006 from Chakkar to Totu. That is the subject matter of CWP No. 5353 of 2001 and that has nothing to do with the earlier transfer from Chakkar to Nahan. Be that, as it may. According to the petitioner, he made several requests to join duty at Chakkar, in view of the pendency of writ petition No. 1109 of 2002. Needless to say that it was ill advised move. In view of the interim order, dated 11.1.2007, passed by the Tribunal, the petitioner could have joined only at Totu. Apparently, the petitioner now realizes the position.

3. In the meanwhile, on account of non-joining of the duty by the petitioner at Totu, disciplinary proceedings had been initiated for the willful action. That led to the filing of the writ petition No. 2936 of 2008. It is seen that this Court has stayed the disciplinary proceedings on account of non-joining duty at Totu.

4. We find that in the meanwhile, another issue cropped up whereby Federation initiated disciplinary proceedings against the petitioner for the correspondence outside the establishment which, according to the Corporation, has brought out ill-reputed to the Corporation. According to the petitioner, he has only brought certain facts to the notice of Federation. But, it is seen that the copies of such communication have also been marked outside the Corporation. Now that the petitioner particularly realizes the mistake, he committed, though bonafide, we are of the view that since the entire disputes, in the interest of all, are to be stocked to, it is only appropriate that the punishment imposed upon the petitioner of barring two increments with cumulative effect is also set aside recording the apology tendered by the petitioner.

5. The petitioner submits that he will join at Totu on 31st August, 2010, taking note of the entire facts and circumstances, as referred to above. All the three writ petitions are disposed of as follows:

6. CWP (T) No. 3266 of 2008 is disposed of permitting the petitioner to join duty at Totu on 31st August, 2010. Since the petitioner had joining time of 10 days, the period between 24.12.2006 to 31.8.2010 will be treated as leave, without allowances. However, it is made clear that in case the petitioner has leave of any kind due to his credit, the same shall be adjusted and to that extent the petitioner will be entitled to eligible allowances. However, to remove any confusion in this regard in future, it is made clear that there shall not be any break in service and the petitioner shall be treated to have continued in service except for the purpose of monetary benefits.

7. CWP No. 2936 of 2008 is disposed of setting aside the entire disciplinary proceeding initiated against the petitioner on account of his non-joining duty at Totu in view of the order, we have passed in CWP(T) No. 3266 of 2008.

8. CWP(T) No. 16570 of 2008 is disposed of recording the apology tendered by the petitioner for his ill advised correspondence made by the petitioner outside the establishment and with a direction that he shall conduct himself strictly in accordance with the Conduct Rules of the Federation and continue in service to the satisfaction of his superiors as well. Hence we set aside the punishment of the barring of two increments with cumulative effect.

All these writ petitions are disposed of, so also the pending application(s), if any.

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