
(2021) 07 SHI CK 0147
In the High Court Of Himachal Pradesh
Case No : Civil Writ Petition No. 3226 Of 2021

Mumtaz Ali

APPELLANT

Vs

State Of H.P. & Anr

RESPONDENT

Date of Decision : 14-07-2021

Acts Referred:

Citation : (2021) 07 SHI CK 0147

Hon'ble Judges : Tarlok Singh Chauhan, J; Satyen Vaidya, J

Bench : Division Bench

Advocate : V. S. Chauhan, Ajay Kashyap, Ashok Sharma, Vinod Thakur, Shiv Pal Manhans, Vikas Rathore, J.S.Guleria

Final Decision : Dismissed

Judgement

Â Tarlok Singh Chauhan, J

1. Claiming a right to be transferred from present place of posting to a convenient place/station, the petitioner has filed the instant petition for the grant of following substantive relief:

â??a) to issue writ of mandamus or direction in nature thereof directing the respondents to consider representation Annexure PÂ3 dated 24.2.2021, to

transfer him from present place of posting i.e. Kanoongo Circle, Pajhota, to some other place situated in warm/hot area, keeping in view the clause 5.5

of Transfer policy as well as health condition of petitioner.â??

2. It would be noticed that it was only in December 2019 that the petitioner was promoted from the post of Patwari to that of Kanoongo and

transferred to Pajhota, where he is still serving. However, the only ground, on which the instant petition has been filed, is that since the petitioner is

nearing retirement, therefore, in terms of transfer policy, more particularly,

clause 5.5 thereof, he is entitled to be posted at a convenient place/station, subject to vacancy.

3. Clause 5.5 of the transfer policy reads as under:

“Concessions to officials likely to retire: In case of Class III and Class IV officials likely to retire within two years, as far as possible, should be posted in the convenient places/stations, subject to vacancy.”

4. Having perused the aforesaid clause, we are clearly of the view that such clause does not come to the aid of an employee, who has been promoted as it is more than settled that an employee on promotion normally cannot serve at the same station and is essentially required to be transferred.

5. That apart, it would be noticed that the petitioner, after being immediately promoted, had preferred a representation dated 24.2.2020 (Annexure P-1)

3) and the only ground taken therein was that his medical condition was being aggravated at a cold station, whereas today, it is fairly submitted by the learned counsel for the petitioner that it was way back in 2019 that the petitioner had suffered a paralytic stroke, but the condition thereafter has not aggravated.

6. In such circumstances, we are of the considered view that the instant petition is clearly not maintainable and is dismissed as such, so also the pending application(s), if any, leaving the parties to bear their own costs.