
(2013) 09 J&K CK 0007

In the Jammu And Kashmir High Court

Case No : S.W.P. 1886 Of 2013 and C.M.A. 2780 Of 2013

Pardeep Singh

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 10-09-2013

Acts Referred:

Citation : (2014) 2 JKJ 49

Hon'ble Judges : Janak Raj Kotwal, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Janak Raj Kotwal, J.—Heard. Petitioner, who is a Lecturer in discipline of Physics in School Education Department, has filed this petition

against Order No. DSEJ/Gaz/19205-09 dated 04-09-2013, whereby, he has been transferred from GHSS, Kandoli, Nargota to HSS, Chanani

(Udhampur).

2. Petitioner has contended that while posted as Lecturer in Physics in GSS, Kandoli, he has been assigned the additional responsibility of raising

the NCC Unit in the said School and that his transfer will amount to closure of NCC Unit in the said School where 70 cadets have been enrolled

for the year 2013-14. Further petitioner has contended that he has been selected as Associate NCC Officer (ANO) senior Division in

Government GHSS, Kandoli, Nargota in terms of NCC Directorate, Jammu & Kashmir order No. 040/A/NCC/78 dated 13-06-2013 and has

been directed to undergo Pre-Commission course at NCC Officers' Training Academy Kamptee, Nagpur from 16th Sept. to 14 Dec, 2013, so

his transfer is illegal and unjustified. Petitioner has further contended that his

transfer is in violation of official communication No. Edu-1/86/2009

dated 15-06-2009 written to the Directorate School Education Jammu by Additional Secretary Government School Education Department.

3. It goes without saying that transfer of a Government servant is an exigency of service and is ordered by the competent authority as per the

service rules and guidelines issued from time to time. A government servant may challenge his transfer order if the same is issued in violation of

rules or guidelines and suffers from mala fide on the part of the transferring authority. Transfer may also be challenged if it is made by an authority

not competent. Transfer, however, cannot be challenged on the ground that in the opinion of transferred Government servant his transfer may affect

functioning of the office, which he was holding at the time of transfer.

4. This is not a case where transfer of the petitioner is pre-mature or is in violation of the rules or guidelines. Communication dated 25-06-2009 is

just a request to the Director School Education, that NCC teachers are posted in those Schools where NCC Units are functioning. This

communication, however, would not preclude the Director, who undisputedly is competent to order transfer of an official of level of the petitioner

from making transfer contrary to the said request. Writ filed by the petitioner, therefore, has no merit and does not merit admission. Hence, it is

dismissed in limini along with connected CMA.