

(2013) 10 SHI CK 0024
In the High Court Of Himachal Pradesh
Case No : CWP No. 5977 of 2013-H

Purshotam Guleria

APPELLANT

Vs

State of HP and Others

RESPONDENT

Date of Decision : 18-10-2013

Acts Referred:

Citation : (2013) 10 SHI CK 0024

Hon'ble Judges : Sanjay Karol, J; Dharam Chand Chaudhary, J

Bench : Division Bench

Advocate : Sanjeev Bhushan, for the Appellant; Shrawan Dogra, Advocate General, Mr. D.C. Pathik, Additional Advocate General and Mr. R.S. Verma, Additional Advocate General, for the Respondent

Final Decision : Dismissed

Judgement

Sanjay Karol, J.—Petitioner has prayed for the following reliefs:-

(i) That a writ in the nature of certiorari may be issued and Annexure P-6 dated 31.7.2013 may kindly be quashed and set aside.

(ii) That a writ in the nature of mandamus may be issued directing the respondents to allow the petitioner to continue work at the present place of posting, i.e. in the office of CDPO Solan.

On 5.2.2013, petitioner, who is working as Senior Assistant, was transferred from the O/o Child Development Project Officer, Solan, Distt. Solan to the O/O Child Development Project Officer, Salooni, Distt., Chamba, H.P. Aggrieved thereof, he filed CWP No. 623/2013, titled as Shri Purshotam Guleria versus State of Himachal Pradesh & others, which was disposed of vide judgment dated 29.4.2013, inter alia with the following directions:-

4. Be that as it may, we find that the petitioner is to retire on 30th June, 2014, and in terms of the Transfer Policy framed by the State, such persons who are to retire within a period of two years, are to be accommodated/afforded opportunity

of giving stations of the choice where, as far as possible, they can be adjusted.

5. As such, interest of justice would be met if the petition is disposed of with a direction to respondent No. 2 to consider the case of the petitioner for accommodating him, as far as possible, at a station of his choice in terms of the Transfer Policy of the State. Such decision shall be taken within a period of three weeks from today. Till such decision is taken, the operation of impugned order 05.02.2013, Annexure P-1, shall remain stayed.

6. Needless to add, the authorities shall take decision uninfluenced of any observations made by this Court and the petitioner shall also join at the place of his fresh posting.

2. Now, in terms of the impugned order dated 31.7.2013 (Annexure P-6), in compliance of this judgment, petitioner stands transferred from Solan to the Office of Child Development Project Officer, Nalagarh, District Solan.

3. The challenge is on three grounds:-

(i) Petitioner is to retire in the next seven months.

(ii) There are other persons who have expressed their willingness to join at Nalagarh and as such vacancy would arise at Solan, where petitioner can be easily accommodated.

(iii) The action is punitive, which fact is evident from the disciplinary proceedings, (Annexure P-4) initiated against the petitioner.

4. Vide judgment dated 29.4.2012, we had allowed the petitioner to make representation giving stations of his choice, leaving it to the competent authority to accommodate the petitioner in terms of the Transfer Policy. State, in its response, has justified the transfer from Solan to Nalagarh for the reason that Nalagarh, which is having 71 Gram Panchayats, against a sanctioned strength of 4 has only one person, whereas in Solan, all posts stand filled up. No doubt, petitioner is to retire within next seven months, but however, one cannot lose sight of the fact that petitioner's services are better required at Nalagarh, which in fact is not far off from Solan. Also respondents have taken action, based on administrative exigency and in public interest, considering the fact that he remained posted at Solan, his home town, during major period of his service. Petitioner has also completed his normal tenure of posting at Solan.

5. Simply because some other official is interested to go to Nalagarh from Solan cannot be a ground to accommodate the petitioner at Solan. Administration is not to run as per directions, convenience, whims or fancies of employees, but based on sound and settled principles of law.

6. Disciplinary proceedings, as is evident from the memorandum dated 12.3.2013 (Annexure P-4), were initiated much prior to the petitioner approaching the Court at the first instance. Presumably Court had taken this fact into account while disposing of his earlier petition. That apart, action stands

initiated against the petitioner for having criticized the officials of the State, in the electronic media, which act of his amounts to misconduct. As such, State has justified petitioner's transfer on the ground of administrative exigency and public interest. It cannot be said that action of the State is arbitrary, whimsical, capricious or illegal in any manner.

Hence, for all the aforesaid reasons, we dismiss the petition. Pending application(s), if any, also stand dismissed.