

(2021) 01 SHI CK 0209
In the High Court Of Himachal Pradesh
Case No : Civil Writ Petition No. 5574 Of 2020

Raj Krishan Rattewal

APPELLANT

Vs

State Of Himachal Pradesh & Anr

RESPONDENT

Date of Decision : 07-01-2021

Acts Referred:

Citation : (2021) 01 SHI CK 0209

Hon'ble Judges : Tarlok Singh Chauhan, J; Jyotsna Rewal Dua, J

Bench : Division Bench

Advocate : Tara Singh Chauhan, Ashok Sharma, Vinod Thakur, Vikas Rathore, Shiv Pal Manhans, Nand Lal Thakur, Bhupinder Thakur, Seema Sharma, Yudhvir Singh Thakur, Onkar Jairath

Final Decision : Dismissed

Judgement

Jyotsna Rewal Dua, J

1. Petitioner is working as Principal in Government Senior Secondary School, Joghon, District Solan. Vide office order dated 27.11.2020, he has been

transferred from Government Senior Secondary School, Joghon to Government Senior Secondary School, Dabat, District Bilaspur, vice respondent

No. 2.

2. The petitioner has laid challenge to his transfer from Government Senior Secondary School, Joghon (Solan) to Government Senior Secondary

School, Dabat (Bilaspur) on the grounds; firstly, that petitioner is due to retire in February 2022. With less than two years of service left, he, therefore,

is entitled for the concession under clause 5.5 of "Comprehensive Guiding Principle-2013" granted to the officer retiring within two years;

secondly, that the impugned transfer has been ordered on the basis of a D.O. note to accommodate respondent No. 2, thirdly that the transfer has

been ordered during the currency of ban imposed by the State on transfers.

3. In support of transfer order, the State's response is that petitioner has completed more than four years at Government Senior Secondary

School, Joghon, Solan. Prior to his posting at Government Senior Secondary School, Joghon, the petitioner remained posted at Government Senior

Secondary School, Gullerwala, Solan w.e.f. 2.8.2013 to 30.9.2016, which is at a distance of around 7 K.M. from Government Senior Secondary

School, Joghon. Respondent No. 2 in his reply besides highlighting petitioner's incumbency position, has referred to his (respondent No. 2) being a

couple case with his wife posted as JBT teacher at GPS, Mahadev, Tehsil Nalagarh, District Solan and his own impending retirement in September

2022. Respondent No. 2 had stateldy joined the transferred station on 28.11.2020 i.e. prior to filing of the writ petition.

4(i) The incumbency position of the petitioner tabulated in the reply by the State reflects that petitioner, a Class-I officer belonging to State cadre has

remained in district Solan from 2006 onwards till date. It is evident that petitioner has completed more than normal tenure of service at his present

place of posting. In fact, for the last more than 14 years, he is posted in District Solan.

4(ii) Being a Class-I Officer, clause 5.5 of the Comprehensive Guiding Principle-2013 (Transfer Policy) is not strictly applicable to the petitioner, as

the said clause is applicable only in case of Class-III and Class-IV officials.

4(iii) An effort was made by learned Counsel for the petitioner during hearing of the case that actions initiated by the petitioner for the benefit of

Government Senior Secondary School, Joghon for getting the school's/ government land free from encroachment have visited with him with the

transfer order. This last ditch effort made on behalf of the petitioner has also been met by the State. As per the reply, number of complaints were

received by the Education department against the working of the petitioner, with request to transfer him from GSSS, Joghon. Therefore, the transfer

case of the petitioner was taken up on department file and he was transferred with the approval of the Competent Authority. Some of these

complaints have been made part of the reply.

4(iv) State has also placed on record instructions with respect to demarcation conducted in May 2019 on the request of the petitioner in presence of

petitioner and all affected parties. All the affected parties and school administration expressed satisfaction with the demarcation process. Be that as it may.

In catena of cases, it has been held that employee has no vested right to get a posting at a particular place or choice to serve at a particular place for a particular time. Petitioner a Class-I officer has completed much more than his normal tenure at his present place of posting. He has remained posted in District Solan for the last 14 years. Clause 5.5. of Transfer Policy is not applicable to him stricto-sensu. Therefore, we do not find any infirmity in the order issued by the respondent-State transferring the petitioner from Government Senior Secondary School, Joghon (Solan) to Government Senior Secondary School, Dabat (Bilaspur). The petition is accordingly dismissed, so also the pending application(s), if any.