

(2021) 05 SHI CK 0076
In the High Court Of Himachal Pradesh
Case No : Civil Writ Petition No. 2848 Of 2021

Rajesh Kamal

APPELLANT

Vs

State Of Himachal Pradesh And Another

RESPONDENT

Date of Decision : 07-05-2021

Acts Referred:

Citation : (2021) 05 SHI CK 0076

Hon'ble Judges : Tarlok Singh Chauhan, J;Chander Bhusan Barowalia, J

Bench : Division Bench

Advocate : Vishwa Bhushan, Ashok Sharma, Vinod Thakur, Vikas Rathore, Shiv Pal Manhans, J.S. Guleria, Bhupinder Thakur

Final Decision : Disposed Of

Judgement

Tarlok Singh Chauhan, J

1. The instant petition has been filed by the petitioner for the grant of following substantive relief:

(1) That this writ petition may very kindly be allowed and writ in the nature of mandamus may be issued and the petitioner be transferred against the

likely vacancy in the interest of justice and fair play.

2. From the pleadings, it appear that the wife of the petitioner has died about seven months back and his son is 100% handicapped, that apart, the

petitioner has to look after his 70 years old mother. In such circumstances, we really feel that it is difficult for him to serve at the station where he

has been transferred, more particularly, when there is no one to look after his family i.e. mother and son.

3. We are fully aware of the limitations that have been imposed by law for considering and deciding such like cases as it is more than settled that the

Courts are extremely slow to interfere directly in personal hardship cases, the clear implication of the almost consistent directions given in the cases

are that the transferee could make a representation to the competent authority.

4. Reference in this regard can conveniently be made to a judgment of the Honâ??ble Supreme Court in Rajendra Roy vs. Union of India and

another (1993) 1 SCC 148, wherein it was observed as under:

â??7â?!. The appellant has not made any representation about personal hardship to the department. As such, there was no occasion for the

department to consider such representation. This appeal, therefore, fails and is dismissed, but we make no order as to costs. It is, however, made clear

that the appellant will be free to make representation to the concerned department about personal hardship, if any, being suffered by the appellant in

view of the impugned order. It is reasonable expected that if such representation is made, the same should be considered by the department as

expeditiously as practicable.â??

5. Consequently, the present writ petition is disposed of with a direction to respondent No.2 to consider the instant case as a representation and decide

the same sympathetically within three weeks from today.

6. At this stage, it is represented by learned counsel for the petitioner that there is one post of TGT (Arts) lying vacant at Govt. High School, Nalyana,

thus, the respondents may consider the case of the petitioner for his posting on the aforesaid station.

7. Pending application(s), if any, also stands disposed of.

8. For compliance, list on 14.06.2021.

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