
(2012) 03 SHI CK 0044
In the High Court Of Himachal Pradesh
Case No : Cwp 8594 of 2011-J

Ram Lal Shaktan

APPELLANT

Vs

State of Himachal Pradesh

RESPONDENT

Date of Decision : 27-03-2012

Acts Referred:

Citation : (2012) 03 SHI CK 0044

Hon'ble Judges : Rajiv Sharma, J

Bench : Single Bench

Advocate : Ajay Mohan Goel and Sunil Mohan Goel, for the Appellant; Rajender Dogra, Additional Advocate General with Mr. Vikas Rathore, D.A.G., for the Respondent

Judgement

Rajiv Sharma, J.—Petitioner has assailed transfer order dated 30.4.2011, whereby he was transferred from Government Senior Secondary School Samoli, District Shimla to Government Senior Secondary School, Nainidhar, District Sirmour. He has assailed the transfer order by filing CWP No. 2972 of 2011. The same was disposed of by this Court on 4.8.2011 with the permission to the petitioner to make a representation to the Secretary, Higher Education. In sequel to judgment rendered by this Court on 4.8.2011, the petitioner made representation vide Annexure P-4. Fact of the matter is that the representation made by the petitioner was considered and he has now been adjusted at Government Senior Secondary School, Chambidhar instead of Government Senior Secondary School, Nainidhar. Petitioner has placed on record sufficient material to establish that he has undergone by pass surgery and he is also suffering from spinal problem. This aspect has been overlooked by the Secretary, Higher Education while considering the representation made by the petitioner vide Annexure P-4, dated 16.8.2011. It is prerogative of the employer to post a particular employee at a particular station. However, power to transfer is coupled with the duty to ensure judiciousness, reasonableness and fairness. It has been mentioned against serial No. 8 of the notification dated 30.4.2011 that the petitioner has been transferred on administrative grounds. However, in the reply

filed by the respondent-State, no administrative ground has been mentioned, which has led to the issuance of notification dated 30.4.2011. The employer must have the humane approach and should not be oblivious to the difficulties being faced by the persons like petitioner and similar situate persons. The petitioner has given three vacancies, which are still lying vacant in Government Senior Secondary School, Machoti, Government Senior Secondary School, Karasa and Government Senior Secondary School, Mandal. The manner in which the petitioner has been transferred vide notification dated 30.4.2011 and subsequently adjusted at Government Senior Secondary School, Chambidhar instead of three vacancies given by the petitioner, is arbitrary.

2. Accordingly, in view of the observations and analysis made hereinabove, the present petition is allowed and notification dated 30.4.2011 qua the petitioner is quashed and set aside. Annexure P-6, dated 22.9.2011 is also quashed and set aside. The respondents are directed to post the petitioner at either of the following stations; namely, (i) Government Senior Secondary School, Machoti, (ii) Government Senior Secondary School, Karasa and (iii) Government Senior Secondary School, Mandal, within a period of four weeks from today. Till then, the petitioner shall not be disturbed from his present place of posting. The pending application(s), if any, shall also stand disposed of. No costs.