
(2012) 10 SHI CK 0052
In the High Court Of Himachal Pradesh
Case No : CWP No. 7096 of 2012

Rattan Lal

APPELLANT

Vs

State of Himachal Pradesh and Another

RESPONDENT

Date of Decision : 31-10-2012

Acts Referred:

Citation : (2013) LabIC 316

Hon'ble Judges : Rajiv Sharma, J;Deepak Gupta, J

Bench : Division Bench

Advocate : Bimal Gupta, for the Appellant; Vivek Singh Thakur, Addl. A.G.,
Rajesh Mandhotra, Dy. Advocate, General and V.D. Khidta, for the Respondent

Final Decision : Allowed

Judgement

Deepak Gupta, J.—The petitioner, who is working as Junior Engineer in the IPH has challenged his transfer from the Flood Protection Sub Division, Jalehra to the post of Assistant Engineer, IPH Circle, Una in place of private respondent No. 2. The grievance of the petitioner is that he has served all over the State. In October, 2011 the petitioner was promoted as Assistant Engineer and posted at IPH Headquarter at Shimla. The petitioner made a request that he be transferred from IPH Headquarter and after accepting his request he was transferred to Sub-Division, Amb against a vacant post on 17.4.2012. The petitioner joined there on 24.4.2012. On 23.6.2012, the Government ordered the shifting of the Tube-well Sub Division, Amb to Flood Protection Sub Division, Jalehra, though according to the petitioner this order has still not been implemented. Now, the petitioner who was adjusted at Amb only after six months has been again transferred to Una only to accommodate the private respondent.

2. The stand of the State is that the distance between Jalehra and Una is only four kilometers and the petitioner has been transferred after prior approval of the competent authority. It is further submitted that the petitioner has no vested right to remain posted in one particular station.

3. From the material on record, it is apparent that the private respondent has more or less remained posted either at Una or Amb throughout his service career. The stand of the private respondent is that the job requirement at Jalehra is civil in nature and therefore, the petitioner, who is a Mechanical Engineer, is not suited for this job. We are afraid that it is not for the private respondent to raise such argument and no such argument has been raised by the State. We have called for the record and we find that the petitioner has been transferred only on the basis of some note issued from the office of the Hon''ble Chief Minister. There is no reference by the administrative department of any administrative exigency. There is no reason given why the Hon''ble Chief Minister approved the transfer of the private respondent from Una to Jalehra. If the distance between two stations is only four kilometers then also we fail to understand why it was necessary to transfer the petitioner and the private respondent. There is no material on record to show what was the administrative exigency which led to the transfer of the petitioner. Accordingly, we allow the writ petition, quash the order of transfer dated 9.8.2012 and direct that the petitioner shall be directed to join at Jalehra and the private respondent shall work at Una. No costs.