

(1975) 03 SHI CK 0017

In the High Court Of Himachal Pradesh

Case No : Civil Writ Petition No. 105 of 1968, Writ Petitions No"s. 143 of 1970 and 135 of 1971 and Letters Patent Appeal No. 4 of 1971

Sagli Ram

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 31-03-1975

Acts Referred:

Constitution of India, 1950 — Article 1, 123, 226, 239(1), 239A
General Clauses Act, 1897 — Section 3(8)

Citation : (1975) 4 ILR HP 249

Hon'ble Judges : R.S. Pathak, C.J.;Chet Ram Thakur, J

Bench : Division Bench

Advocate : S. Malhotra and R.S. Phul, for the Appellant; B. Sita Ram, General and P.N. Nag, for the Respondent

Final Decision : Dismissed

Judgement

R.S. Pathak, C.J.—By this writ petition under Article 226 of the Constitution the Petitioner seeks a number of reliefs, including the quashing of the orders dated October 25, 1966, February 19, 1968, and May 9, 1968, allotting the Petitioner from the erstwhile State of Punjab to the Union territory of Himachal Pradesh and the order dated July 26, 1971, transferring him from Simla to Kulu.

2. On the eve of the re-organisation of Punjab the Petitioner was serving as an Assistant in the office of the Director of Agriculture, Punjab, at Chandigarh, in the pay scale of Rs. 116-8-180/10-250. The existing State of Punjab was re-organised on November 1, 1966, inasmuch as its territory was distributed between the newly constituted States of Haryana and Punjab and the Union in relation to the Union territory of Chandigarh and the areas added to the Union territory of Himachal Pradesh.

3. By a letter dated October 25, 1966, the Petitioner was informed by the Director of Agriculture, Punjab, that consequent upon the re-organisation of Punjab he had been allotted to the head office of the Director of Agriculture,

Himachal Pradesh, Simla, in the post of Assistant. The Petitioner protested that the allotment would result in his conditions of service being altered to his disadvantage. He represented that he was agreeable to serving the Himachal Pradesh Government provided his existing conditions of service were protected, and failing that he desired to be re-allotted to the State of Haryana or the State of Punjab. The Petitioner made another representation a few months later. The representations were rejected and he was informed by a letter dated May 9, 1968, that he had been finally allotted as officiating Assistant to the Himachal Pradesh Government. The final allotment was made by a letter dated February 19, 1968, of the Government of India.

4. The Petitioner was absorbed as an Assistant in the Department of Agriculture, Himachal Pradesh. Subsequently, he was promoted to the post of Head-Clerk in the scale of Rs. 160-300 in the Directorate of Agriculture. During the pendency of the writ petition the Petitioner was transferred from the Directorate to the office of the District Agriculture Officer, Kulu, by a letter dated July 26, 1971.

5. The case of the Petitioner is that his employment in the erstwhile State of Punjab was governed by the Punjab Agriculture Subordinate Service Rules, 1933. Those rules envisage two distinct classes of offices, the head office of the Agriculture Department under the Director of Agriculture situated at the headquarters, which was designated as a "B" class office, and the subordinate offices of the Agriculture Department at the district level, described as "C class offices. The pay scales of the posts held by the officials in the "B" and "C class offices ran along different time scales. In the "B" class office, that is the head office, the promotion of an official in the ministerial staff followed as under:

Post	Pay scale	Clerk .. Rs. 60-4-80/5-120/5-175	Assistant .. Rs. 116-8-180/10-250
Post	Pay scale	Head-Assistant .. Rs. 250-10-350	Superintendent .. Rs. 350-20-450

In the case of "C class offices, that is subordinate offices, the promotion of the staff was governed by the following order:

Post	Pay scale	Clerk .. Rs. 62-4-80/5-120/5-175	Accountant .. Rs. 106-6-160/8-200
Head-Clerk .. Rs. 150-10-300	Superintendent .. Rs. 250-10-350		

The Petitioner points out that there were fundamental differences in the conditions of service enjoyed by the staff working in the subordinate offices and the staff working in the head office, and one of the advantages which flowed from employment in the head office was that the official continued-serving at the head office only and was not liable to transfer as in the case of the staff employed at the subordinate offices. The Petitioner alleges that the seniority of ministerial staff in the head office was separately maintained from that of the subordinate offices, and there was no inter-changeability between the staff of the head office and that of the subordinate offices. The Petitioner says that when he reported for duty in Simla pursuant to the order dated October 25, 1966,

allotting him to the Union territory of Himachal Pradesh he discovered that no distinction was maintained between the head office and the subordinate offices, as had been the case in Punjab and was still prevailing in the successor States of Haryana and Punjab. There was only one cadre. The cadre included the staff of the head office and also of the subordinate offices. The cadre was governed by the Himachal Pradesh Agriculture Class III (Ministerial Section) Recruitment and Conditions of Service Rules, 1962. The rules envisage only one class of service, and the posts of that service are classified as follows:

Post Pay scale Clerk .. Rs. 60-4-80/5-120/5-175 Steno-typist .. Rs. 60-4-80/5-120/5-175 plus Rs. 15 as stenography allowance. Stenographer .. Rs. 100-5-175 Accountant .. Rs. 106-6-160/8-200 Assistant .. Rs. 116-8-180/10-250 Head Clerk .. Rs. 150-10-200/10-300 Auditor-cum-Accountant .. Rs. 150-15-300 Head Assistant .. Rs. 250-10-350

No post of Superintendent has been provided by the Himachal Pradesh Rules. The promotion from the post of Assistant lies to the post of Head-Clerk or Auditor-cum-Accountant, in the grade of Rs. 150-300 and the last promotion lies to the post of Head-Assistant in the grade of Rs. 250-10-350. The Petitioner says that the conditions of service applied to him under the Himachal Pradesh Rules are clearly to his disadvantage when compared with the opportunities open to him under the Punjab Rules.

6. On November 4, 1968, the President of India, acting under the proviso to Article 309 of the Constitution, framed the Himachal Pradesh Allotted Government Servants (Conditions of Service) Rules, 1968. The rules came into effect from November 1, 1966. They may be reproduced here:

No. 8/7/67-HMT. GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS New Delhi-1, the 4th November, 1968/13th Kartika, 1890 NOTIFICATION

GSR.... In exercise of the powers conferred by the proviso to Article 309 of the Constitution, the President hereby makes the following rules regulating the conditions of service of persons allotted under the provisions of Section 82 of the Punjab Re-organisation Act, 1966 (31 of 1966) to serve in connection with the affairs of the Union in relation to the territory transferred to the Union territory of Himachal Pradesh u/s 5 of the said Act, namely:

1. Short title and commencement.--(1) These Rules may be called the Himachal Pradesh Allotted Government Servants (Conditions of Service) Rules, 1968.

(2) They shall be deemed to have come into force on the 1st day of November, 1966.

2. Conditions of service applicable to allotted Government Servants.--The rules relating to conditions of service applicable from time to time, to those persons who, immediately before the commencement of these rules, were employees of the Himachal Pradesh Administration, shall apply to every person who, immediately before such commencement, was serving in connection with the

affairs of the former State of Punjab and who, on or after such commencement, has been allotted under the provisions of Sub-section (1) or Sub-section (2) of Section 82 of the Punjab Re-organisation Act, 1966 (31 of 1966).

E. 8/7/67-HMT. Sd/- R.C. GUPTA, Under Secretary to the Government of India.

The case of the Petitioner is that the orders allotting him to Himachal Pradesh have resulted in his conditions of service being varied to his disadvantage in contravention of the proviso to Section 82(6) of the Punjab Re-organisation Act. The Respondents say that the Petitioner is governed by the Himachal Pradesh Allotted Government Servants (Conditions of Service) Rules, 1968, and therefore there is no substance in his grievance. The Petitioner therefore challenges the validity of those rules.

7. Letters Patent Appeal No. 4 of 1971 arises out of Civil Writ Petition No. 68 of 1969. The Petitioner Randhir Singh, who was an Inspector, Co-operative Societies in the State of Punjab was allotted to serve in the Union territory of Himachal Pradesh with effect from November 1, 1966. He was absorbed as an Inspector, Co-operative Societies, Himachal Pradesh. He contends that in the promotions which followed he was placed at a disadvantage because of the application of the rules prevailing in Himachal Pradesh. The application of the rules to the Petitioner was justified by the Respondents on the basis of the Himachal Pradesh Allotted Government Servants (Conditions of Service) Rules, 1968. The Petitioner challenged the action of the Respondents but the writ petition was dismissed by Tatachari J. The Petitioner has now appealed.

8. In Civil Writ Petition No. 143 of 1970 the Petitioner Sarwan Singh Sodhi, who also was serving in the erstwhile State of Punjab and was, with effect from November 1, 1966, allotted to serve in Himachal Pradesh under the Punjab Re-organisation Act, is aggrieved by the application of the Himachal Pradesh Allotted Government Servants (Conditions of Service) Rules, 1968, on the basis of which promotions have been made of Assistants to posts of Superintendent. The Petitioner challenges the validity of the rules and seeks, inter alia, relief against the order effecting the promotions.

9. In Civil Writ Petition No. 135 of 1971, the Petitioner Waryam Singh Malhotra says that he was Deputy Superintendent of Jails in the erstwhile State of Punjab and with effect from November 1, 1966, he was allotted to serve in Himachal Pradesh, that by reason of the Himachal Pradesh Allotted Government Servants (Conditions of Service) Rules, 1968, he became subject to the same conditions of service as were applicable to those who were Government servants in Himachal Pradesh before November 1, 1966, and in the result the conditions of service formerly enjoyed by him in Punjab have been varied to his disadvantage. He cites the promotion effected of Respondent No. 4 in supersession of him under the rules framed on May 4, 1970, The Petitioner prays for relief, inter alia, against the order promoting Respondent No. 4 and challenges the validity of the Himachal Pradesh Allotted Government Servants (Conditions of Service) Rules,

1968, and the rules of recruitment framed on May 4, 1970. During the hearing of the petition before us, learned Counsel for the Petitioner merely challenged the former set of rules.

10. Learned Counsel for the Petitioners and the Appellant in the connected cases state that a decision on the points raised in Civil Writ Petition No. 105 of 1968 should be taken to govern the decision of those cases also. For the purpose of all the cases before us it may be assumed that the conditions of service enjoyed by the Petitioners and the Appellant in Punjab before November 1, 1966, have been varied to their disadvantage after their allotment to serve in Himachal Pradesh. The question then is whether the Himachal Pradesh Allotment of Government Servants (Conditions of Service) Rules, 1968, are invalid. The submissions of learned Counsel for the parties have covered a wide field, and it would be convenient to formulate here the points which arise for consideration of those submissions.

1. Can the impugned rules be considered valid as having been made by the President under Article 239(1) of the Constitution or under Article 53(1) read with Article 73(1)(a) of the Constitution?

2. If the impugned rules are considered as having been made under the proviso to Article 309 of the Constitution, does the President have power to make rules concerning the conditions of service of Government servants serving in the Union territory of Himachal Pradesh ?

3. Are the impugned rules invalid because Parliament has already enacted the proviso to Section 82(6) of the Punjab Re-organisation Act and therefore there is no power in the President to make rules under the proviso to Article 309?

4. Are the impugned rules invalid on the ground that the previous approval of the Central Government, as required by the proviso to Section 82(6) of the Punjab Re-organisation Act, was not taken ?

5. If the impugned rules can be said to have been framed by the Central Government and therefore to have received the implied approval of that Government, is not the approval invalid because the proviso to Section 82(6) of the Punjab Re-organisation Act contemplates only the individual consideration of each case and not a "blanket" approval?

Point No. 1:

11. The impugned rules purport to have been made under the proviso to Article 309 of the Constitution. On the contention of the Petitioners that the rules are ultra vires because they do not satisfy the requirements of the proviso to Article 309, the Respondents have set up the alternative case that the rules can be referred for their validity to Article 53(1) read with Article 73(1)(a) or to Article 239(1). It is appropriate at this stage to determine whether there is any force in the latter contention.

12. Article 53(1) declares that the executive power of the Union shall be vested in the President, and Article 73(1)(a) defines the extent of that executive power. The provisions deal entirely with executive power, and any action taken in the exercise of that power must also be executive in character.

13. Article 239(1) provides that every Union territory shall be administered by the President acting, to such extent as he thinks fit, through an Administrator to be appointed by him. The power conferred is plainly executive in character. It does not include legislative power. Legislation in respect of Union territories is enacted by Parliament by virtue of Article 246(4) of the Constitution, or by a body created by Parliament under Article 239A to function as a legislature for the Union territory. In the absence of a body created under Article 239A, it is open to the President under Article 240 to make regulations for the peace, progress and good government of specified Union territories. The legislative power having been vested in Parliament under Article 246(4), in the body created under Article 239A for functioning as a Legislature or in the President under Article 240, the only conclusion can be that Article 239(1) does not include the grant of legislative power but it is concerned merely with the grant of executive power. Under Article 239(1) the President exercises the executive power involved in the administration of a Union territory even as under Article 53(1) the President is vested with the executive power of the Union.

14. It is apparent then that the impugned rules can be attributed to the power under Article 53(1) read with Article 73(1)(a) or Article 239(1) only if they are executive in character.

The next point for enquiry is:

15. Are the impugned rules executive in character? Or, as the Petitioners contend, are they legislative?

There is a well accepted broad distinction between legislative and administrative or executive acts. A legislative act is the creation and promulgation of a general rule of conduct without reference to particular cases, while an administrative or executive act is the making and issue of a specific direction, or the application of a general rule to a particular case in accordance with the requirements of policy. S.A. de Smith: *Judicial "Review of Administrative Action"*, 2nd Edn., page 57.

16. Plainly, the impugned rules are legislative in character. They regulate the conditions of service of all allotted Government servants. They lay down a principle operating as a general rule of conduct in relation to such conditions of service. In this respect, how have rules of this kind been treated by the Courts?

17. It has been observed by the Supreme Court in *B.S. Vadera Vs. Union of India (UOI) and Others*, that they are considered as legislative in character. Explaining their observations in that case the Supreme Court pointed out in *Income Tax Officer, Alleppey Vs. M.C. Ponnose and Others*, that there was a close similarity between the power given to the President in the matter of regulating the

recruitment of Government servants and their conditions of service and the power given to Parliament in the matter. The rules made by the President partake of the same character as legislation made by Parliament. The impugned rules ex facie indicate that they have been made by the President under the proviso to Article 309. There is no reason why having regard to their nature and content the impugned rules should not be ascribed to the exercise of that power. In my opinion, the impugned rules cannot be justified by reference to Article 53(1) read with Article 73(1)(a) or to Article 239(1) of the Constitution.

Point No. 2:

18. The next point to be considered is whether the President could make rules under the proviso to Article 309 of the Constitution in respect of a Union territory. Article 309 is concerned with the regulation of the recruitment, and conditions of service, of persons appointed to public services and posts in connection with the affairs of the Union. That regulation may be effected by an Act of Parliament or by rules framed by the President. Now it is an affair of the Union to provide for the administration of a Union territory. It is for that reason that the Constitution has, by Article 239(1), entrusted the President with the administration of a Union territory and has, by Article 246(4), empowered Parliament to make laws for a Union territory. Both executive and legislative functions have been entrusted by the Constitution to functionaries of the Union. The Constitution envisages the administration of a Union territory as an affair of the Union. Consequently, the President, acting under the proviso to Article 309, can make rules regulating the recruitment, and the conditions of service, of the persons appointed to public services and posts in the Union territories. I am fortified in this conclusion by the view expressed by the Himachal Bench of the Delhi High Court in *Jai Chand v. Union of India* 1969 S.L.R. 386, and by the observations of that Court in *H.L. Rodhey v. Delhi Administration* AIR 1969 S.C. 246.

Point No. 3:

19. The third point is whether the President is precluded from exercising power under the proviso to Article 309 of the Constitution because the proviso to Section 82(6) of the Punjab Re-organisation Act deals with the conditions of service of allotted Government employees. The point can be disposed of shortly. The proviso to Section 82(6) is a provision of the Punjab Re-organisation Act. That Act has been enacted under Article 3 of the Constitution. The provision in relation to the conditions of service of government servants affected by the process of re-organisation is incidental to the essential subject-matter of the Act, that is to say, the re-organisation of the State of Punjab. The provision could have been made even if Article 309 of the Constitution had not been enacted. I am unable to hold that the proviso to Section 82(6) can be considered as Parliamentary legislation made under Article 309. That being so, it cannot be said that the field of legislation envisaged by Article 309 was already occupied by an Act of Parliament and that therefore the President was precluded from making

rules under the proviso to Article 309.

Point No. 4:

20. The fourth point is concerned with the question whether the previous approval of the Central Government, as required by the proviso to Section 82(6) of the Punjab Re-organisation Act, has been accorded to the impugned rules. The proviso to Section 82(6) declares that the conditions of service applicable immediately before the appointed day to the case of a government servant referred to in Sub-sections (1) and (2) of Section 82 shall not be varied to his disadvantage except with the previous approval of the Central Government. It is urged by the Respondents that because the President has made the impugned rules, they should be taken to have received the previous approval of the Central Government. But learned Counsel for the Petitioners contends that the President acting under the proviso to Article 309 does not exercise a power of the Union. It is a power conferred on him specially. And we are referred to the following observations in the Majority Judgment delivered by Shah J. in *Jayantilal Amrit Lal Shodhan Vs. F.N. Rana and Others*,

The power to promulgate Ordinances under Article 123...to make rules regulating recruitment and conditions of service of persons appointed to posts and services in connection with the affairs of the Union under Article 309...are not powers of the Union Government these are powers vested in the President by the Constitution and are incapable of being delegated or entrusted to any other body or authority under Article 258(1).

21. It is necessary to explain these observations. On a careful reading of that judgment, it is clear that the learned Judges were considering the scope of Article 258(1) of the Constitution. In detailing the several kinds of power exercised by the President, including the power to make rules under the proviso to Article 309, the intention of the learned Judges was to distinguish the powers so exercised by the President from the powers which could be delegated under Article 258(1). Article 258(1) provides for the delegation of functions in relation to a matter to which the executive power of the Union extends. The provision refers to the executive power of the Union, and at once Article 53(1) is called to mind. Article 53(1) vests the executive power of the Union in the President, and the character of the executive power is in part indicated by Article 73(1)(a), which provides that the executive power of the Union shall extend to matters with respect to which Parliament has power to make laws. The executive power of the Union also extends, by Article 298, to the carrying on of any trade or business and to the acquisition, holding and disposal of property and the making of contracts for any purpose. The executive power contemplated by Articles 53(1) and 298 is not the power specially conferred by the Constitution on the President under Article 239(1) or the power to make rules under the proviso to Article 309. Those are powers specially conferred on the President, distinct and apart from the executive power of the Union mentioned in Articles 53(1) and 298. To say that, however, does not mean that the power conferred on the

President under Article 239(1) or under the proviso to Article 309 is not a power of the Union. The President symbolises the Union, and the powers exercised by him under Article 239(1) and under the proviso to Article 309 are powers of the Union, although they are not comprehended within the executive power of the Union mentioned above. When constructing the observations of Shah J. in *Jayantilal Amratlal Shodhan* (supra) it is necessary to bear in mind the context in which they were made; and construed in that context it is clear that when the learned Judge said that the power of the President to make rules under Article 309 is not a power of the Union Government what he must be taken to have meant is that the power of President under Article 309 is not such power as can be included in the executive power of the Union which is contained in the provisions mentioned above.

22. It seems to me clear that when the President makes rules under the proviso to Article 309, the rules must be attributed to the Central Government. It is in this context that we must appreciate the significance of the definition in Section 3(8)(b) of the General Clauses Act that the expression "Central Government" means the President.

23. As the impugned rules have been framed by the President and therefore by the Central Government, it must necessarily be inferred that they have received the prior approval of the Central Government.

24. In my opinion, the impugned rules do not contravene the proviso to Section 82(6) of the Punjab Re-organisation Act and cannot be assailed as invalid on that ground.

Point No. 5:

25. The proviso to Section 82(6) of the Punjab Re-organisation Act declares that the service conditions of allotted Government servants can be varied only with the previous approval of the Central Government. Learned Counsel for the Petitioners say that the proviso to Section 82(6) requires the individual consideration of each case and does not contemplate a "blanket" approval covering several cases. In my opinion, the approval of the Central Government is not invalid merely because the impugned rules are covered by a "blanket" approval. Nowhere does the proviso to Section 82(6) require that the approval should be in respect of each case considered individually and that an approval generally in respect of such cases cannot be accorded. In *N. Raghavendra Rao Vs. Deputy Commissioner, South Kanara, Mangalore*, the Supreme Court, in upholding the validity of the Mysore General Services (Revenue Subordinate Branch) Recruitment Rules, 1959 repelled the contention that a general approval could not be given. Later in *Mohammad Shujat Ali and Others Vs. Union of India (UOI) and Others*, the Supreme Court observed that the expression "previous approval" in the proviso to Section 115(7) of the States Re-organisation Act, 1956 would include a general approval to a variation in the conditions of service, and accordingly declared the Andhra Pradesh Engineering Services Rules, 1966

valid. Accordingly, I hold that the impugned rules cannot be challenged successfully on the ground that a "blanket" approval has been given.

26. In my judgment, the Petitioners and the Appellant in the cases before us have failed to establish that the Himachal Pradesh Allotted Government Servants (Conditions of Service) Rules, 1968 are invalid.

27. The second part of the case raises the point whether the allotment of the Petitioners and the Appellant having been made to the Union territory of Himachal Pradesh the allotment orders are invalid. There is the further question whether the initial and subsequent postings of an allotted government servant must be confined to a place in the territory transferred to the Union territory of Himachal Pradesh. So far as this question is concerned, it does not appear to arise in the cases before us. But out of deference to the arguments of learned Counsel, this question may also be considered.

28. The recital that the allotment of the government servants has been made to the Union territory of Himachal Pradesh is merely an example of inaccurate language. The Union territory is a territorial unit. It is not a political entity enjoying sovereign power. The Union and the States, as is clear from Article 1 of the Constitution, enjoy sovereign power. They have the power to administer, and they administer territorial units. Now, it is clear from reading Section 2(m) and Section 2(n) along with Section 5(1) of the Punjab Re-organisation Act that the Union is the successor State in relation to the territories transferred from Punjab to Himachal Pradesh. Section 82(2) of the Act empowers the Central Government to determine the successor State to which a government servant serving in connection with the affairs of the existing State of Punjab will be finally allotted for service. The allotment of the Government servant is to the successor State. Therefore, when a government servant serving in Punjab is allotted to serve in Himachal Pradesh, he is allotted from the State of Punjab to the Union. The process implies a change of employers, the Union as the new employer replacing the State of Punjab as the erstwhile employer. The government servants, in the cases before us, must be taken to have been allotted to the Union, and where the allotment orders describe them as allotted to the Union territory of Himachal Pradesh they mean that they are allotted to the Union. The mere circumstance that the impugned orders have employed inaccurate language cannot make the orders invalid specially when the intention is plain and admits of no doubt.

29. The question whether the initial and subsequent places of posting of an allotted government servant must be confined to the "transferred territory" may now be considered. Those who maintain that the places of posting must be within the "transferred territory" rely on the expression "in relation to the transferred territory" found in Section 2(m) of the Punjab Re-organisation Act. What does that expression mean? Reading Section 2(m) again, it is clear that it merely means that whereas sovereignty over the transferred territory formerly vested in the erstwhile State of Punjab, the State of Punjab is in that respect succeeded to by the Union. In other words, the Union will now enjoy sovereignty

over the transferred territory. Now Section 5(1) adds the "transferred territory" to the Union territory of Himachal Pradesh. Clearly, the authority exercising sovereignty over the "transferred territory" must be the same as the authority exercising sovereignty in respect of the Union territory of Himachal Pradesh as constituted before the appointed date. That is apparent because the transferred territory has merged into the Union territory. Once the "transferred territory" merges into the Union territory, no distinction can be contemplated between the "transferred territory" and the original Union territory. They constitute a single integral territorial unit, administered by a single authority, namely the President. There is only one administration and that holds undivided sway over the entire augmented Union territory.

30. Now the sole function of the Central Government u/s 82(2) of the Punjab Re-organisation Act is to allot a Government servant from the existing State of Punjab to one of the successor States. Once the act of allotment is final as envisaged by Section 82 of the Act, there is nothing more which the Central Government is empowered to do. Section 82 does not give power to the Central Government to determine the place of posting of the allotted Government servant. That is the right of the new employer, that is to say, the successor State.

31. In my opinion, it is open to the successor State to post an allotted Government servant to any place it considers suitable in the interests of administration. I am unable to agree with the contention that the first posting of an allotted Government servant must be to a place within the "transferred territory". The observations to the contrary in *Baru Singh v. State of Haryana* C.W.P No. 2484 of 1966, decided by a Division Bench of the Punjab High Court, are in my respectful opinion, not correct. If it is open to the successor State to make the initial posting of an allotted Government servant to any place within the augmented Union territory of Himachal Pradesh, a Government servant can have no legitimate grievance if he is posted thereafter to another place within the Union territory of Himachal Pradesh whether that place be within the transferred territory or outside it.

32. Accordingly, Civil Writ petition No. 105 of 1968, and L.P.A. No. 4 of 1971 are dismissed. There is no order as to costs.

33. Civil Writ petition No. 143 of 1970 and Civil Writ Petition No. 135 of 1971 will be listed for hearing on the remaining points arising in them.

Chet Ram Thakur J:

34. I agree.