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**(2020) 08 SHI CK 0137**  
**In the High Court Of Himachal Pradesh**  
**Case No : Civil Writ Petition No. 1979 Of 2019**

Sanjay Kumar

APPELLANT

Vs

State Of H.P. & Others

RESPONDENT

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**Date of Decision :** 17-08-2020

**Acts Referred:**

National Cadet Corps Rules, 1948 — Rule 23

**Citation :** (2020) 08 SHI CK 0137

**Hon'ble Judges :** L. Narayana Swamy, CJ: Anoop Chitkara, J

**Bench :** Division Bench

**Advocate :** Ajay Sharma, Aanandita Sharma, Ashok Sharma, Ritta Goswami, Vinod Thakur

**Final Decision :** Disposed Of

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## Judgement

L. Narayana Swamy , CJ

1. The petitioner is working as Lecturer in Mathematics and vide office order dated 26.06.2020 he has been transferred to GSSS Bogdhar, District

Sirmaur against a vacancy. This transfer order has been assailed by the petitioner on the ground that he is NCC training officer and he cannot be

transferred to a school which did not have NCC imparting training facilities to the students. NCC training officer could be transferred only to the

institution or school where the NCC training facilities are available. In support of this, learned senior counsel appearing for the petitioner referred to

Rule 23 of the National Cadet Corps Rules (for short, 'NCC Rules') and submits that as per the said Rule, it shall be the duty of the State to

transfer the trained officers only to the Schools having NCC cadre. Learned Senior Counsel also referred to the judgment dated 26.11.2014 passed by

this Court in CWP No.6802 of 2014, wherein the Court directed the Government

to transfer the NCC training officer to the Schools where NCC

training is available. Learned Senior Counsel for the petitioner also referred to the letter dated 01.05.2003 (Annexure P-7), relevant portion of which

reads as under:

“For smooth functioning of NCC activities in the Colleges/Schools it has been declared by Hon’ble Chief Minister and Hon’ble Education

Minister that ANO’s (NCC) may not be transferred to non NCC Institution.

All concerned requested to please adhere to these instructions where NCC troops are functioning.”

2. In the light of the above, learned Senior Counsel appearing for the petitioner submits that the transfer order passed by the respondents is not in

accordance with Rule 23 of the NCC Rules and also instructions referred to in letter dated 1. 05.2003. Hence, he prayed that transfer order be set

aside by allowing the present petition.

3. On the other hand, learned Additional Advocate General submits that the present petition be dismissed on two grounds, namely, the petitioner has

been relieved on 27. 06.2020 from the place where he was working since he had completed his normal tenure of three years and another person has

reported in his place. As such, the impugned order of transfer cannot be interfered with since it has already been acted upon. Secondly, it is open for

the petitioner to make a request to the respondents who shall consider it and pass appropriate orders in terms of Rule 23 of NCC Rules (supra).

4. Learned counsel for respondent No.5 supports the impugned transfer order and submits that the petitioner has been rightly transferred on

completion of his normal tenure of three years and he cannot take benefit of Rule 23 of the NCC Rules.

5. We have heard learned counsel for the parties and gone through the record.

6. In view of the facts stated by the petitioner, which are not disputed by the respondents, we dispose of the present petition by directing the

respondents to consider the request of the petitioner in terms of Rule 23 of NCC Rules and also in light of letter dated 01.05.2003 (Annexure P-7). To

enable the respondents to pass appropriate orders, it is appropriate for the petitioner to make representation within a period of one week by annexing

copies of letter dated 01.05.2003 (Annexure P-7) and Rule 23 of NCC Rules. It is also open for the petitioner to annex copy of his selection as ANO.

The respondents shall pass appropriate orders within a period of two weeks from the date of receipt of representation.

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

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