

(2012) 06 SHI CK 0077
In the High Court Of Himachal Pradesh
Case No : CWP No. 7479 of 2011-I

Sat Pal

APPELLANT

Vs

Managing Director, H.P. State Civil Supply Corporation
Limited, S.D. A. Complex, Kasumpti, Shimla-9, H.P., Area
Manager, H.P. State Civil Supply Corporation Limited,
Chamba, H.P. and Randev Singh

RESPONDENT

Date of Decision : 01-06-2012

Acts Referred:

Citation : (2012) 06 SHI CK 0077

Hon'ble Judges : Rajiv Sharma, J

Bench : Single Bench

Advocate : Vikas Rajput, for the Appellant; Raghunandan Chaudhary, Advocate for Respondents No. 1 and 2 and Mr. Manoj Sharma, Advocate, for the Respondent

Judgement

Justice Rajiv Sharma, Judge

1. Petitioner joined his duties at Whole Sale Godown Holi pursuant to order dated 18.6.2010 on 26.6.2010. Petitioner is aggrieved by the issuance of office order dated 25.8.2011 whereby he has been transferred to Whole Sale Godown, Killar. Mr. Vikas Rajput has strenuously argued that the petitioner has been transferred from his present place of posting, i.e. Whole Sale Godown, Holi to Whole Sale Godown, Killar to accommodate respondent No.3. He then argued that the petitioner has only worked at Holi for a period of one year and two months. According to him, his client should have been permitted to work at Holi at least for three years.

2. Mr. Raghunandan Chaudhary and Mr. Manoj Sharma have supported the transfer order.

3. I have heard the learned counsel for the parties and have perused the pleadings carefully.

4. Petitioner joined his duties as Clerk in Whole Sale Godown, Holi on 26.6.2010. He has hardly worked at Holi for a period of one year and two months when he has been transferred from Holi to Killar on 25.8.2011. According to Annexure P-5, Retail Shops at Dalli and Holi were closed and consequently respondent No.3 and one Sh. Om Prakash were permitted to work at Whole Sale Godown, Holi. Now, respondents No.1 and 2 have retained respondent No.3 at Holi and petitioner has been transferred to Killar. Respondent No.3 has been permitted to work at Whole Sale Godown, Holi after the closure of Retail Shop at Dalli. Since he was surplus, he ought to have been transferred instead of petitioner to Killar.

5. Mr. Raghunandan Chaudhary has also argued that since disciplinary proceedings have been initiated against two incumbents, namely, Ashwani Kumar and Chain Singh and they have been put under suspension, the petitioner was transferred in these circumstances to Killar on the basis of length of service, as Clerk. Even if the disciplinary proceedings have been initiated against Ashwani Kumar and Chain Singh, respondent No.3, being surplus, should have been sent to Killar. Petitioner has worked, as noticed above, at Holi for a period of one year and two months only.

6. Mr. Raghunandan Chaudhary has also argued that the transfer policy framed by the State is not applicable and the petitioner could be transferred to Killar. However, the fact of the matter is that though it is the prerogative of the employee to see where an incumbent is to be posted by way of transfer, but it is equally true that the power to transfer is coupled with duty to ensure reasonableness and fairness. The present transfer of the petitioner in view of the facts enumerated hereinabove is arbitrary. Accordingly, in view of the observations and discussions made hereinabove, the writ petition is allowed. Annexure P-4 dated 25.8.2011 is quashed and set aside. Respondents No.1 and 2 are directed to permit the petitioner to work at Whole Sale Godown, Holi, District Chamba. Pending application(s), if any, also stands disposed of. There shall, however, be no order as to costs.