
(2011) 11 SHI CK 0162
In the High Court Of Himachal Pradesh
Case No : CWP No. 7532 of 2011-I

Sh. Dinesh Kumar Negi

APPELLANT

Vs

State of Himachal Pradesh and Others

RESPONDENT

Date of Decision : 16-11-2011

Acts Referred:

Citation : (2011) 11 SHI CK 0162

Hon'ble Judges : Sanjay Karol, J

Bench : Single Bench

Judgement

Sanjay Karol, J.—Petitioner, Sh. Dinesh Kumar Negi was transferred from Government High School, Khagna to Government Senior Secondary School, Chopal, vide order dated 16th November, 2009 (Annexure-P2). This transfer, as is apparent from the order, was on mutual basis and without TTA/ Joining Time. Obviously, request must have been made on behalf of the petitioner for mutual adjustment.

2. In terms of impugned order dated 30th August, 2011 (Annexure-P3), petitioner now stands transferred from Government Senior Secondary School, Chopal (Shimla) to Government High School, Jhinna (Chopal) and in his place, private respondent, Smt. Sunita Negi stands transferred from Government High School, Bharari (Shimla) to Government Senior Secondary School, Chopal (Shimla).

3. Quite apparently, the impugned order of transfer is issued to accommodate the private respondent. But however from response filed by the State as also private respondent, it is apparent that petitioner has been serving in and around Chopal since the year 1997. He remained posted within a radius of 15 Kilometers from the place of his residence. Though distance in terms of Kilometers is disputed, but he remained stationed at Chopal. Petitioner claims to have physical disability to the extent of 40%. Medical certificate, allegedly issued in favour of the petitioner, showing that he is blind from vision to the extent of 40%, is on record. But, however, it is equally true that private respondent who met with an

accident, had to undergo surgery some time in the month of July, 2011. Her medical certificate/ discharge slip (Annexure R-2) is also on record to this effect. She belongs to Chopal and, hence, none is there to look after her at Shimla. She has a fracture in her left leg and is still walking with the help of crutches. As such, in my considered view, no fault can be found on the part of the State in accommodating the private respondent at Chopal in place of petitioner. Impugned order dated 30.8.2011 (Annexure P-3) can not be faulted. Comparative hardship and other attending circumstances of both the employees has been considered while taking such decision.

4. One, however, can not loose sight of the fact that petitioner himself may have been put to some hardship on account of his disability. He also claims to be suffering from other medical problems. In this view of the matter, there shall be a direction to respondent No.1 to consider accommodating the petitioner at a more convenient place than Jhinna. It is stated by Mr. Onkar Jairath, learned counsel for the petitioner that certain vacancies have arisen/ are likely to arise in future in and around Chopal. While taking such a decision, respondent No.1 shall take into account this aspect of the matter also. The decision shall positively be taken within a period of two weeks from the date of production of certified copy of this judgment by the petitioner. It is made clear that to enable the petitioner to make sufficient arrangements, for a period of two weeks he shall continue to discharge his duties at Government Senior Secondary School, Chopal. Thereafter, private respondent, who claims to have already joined at Chopal, shall be entitled to receive salary. Interim order dated 06.09.2011 stands modified to the aforesaid extent.

5. In view of the aforesaid, the petition stands disposed of.

Authenticated copy to the parties.