

(2024) 02 SHI CK 0007

In the High Court Of Himachal Pradesh

Case No : Civil Writ Petition No. 1088 Of 2024

Shashi Pal

APPELLANT

Vs

Himachal Pradesh State Electricity Board Limited And Others

RESPONDENT

Date of Decision : 15-02-2024

Acts Referred:

Citation : (2024) 02 SHI CK 0007

Hon'ble Judges : Ranjan Sharma, J

Bench : Single Bench

Advocate : Pankaj Thakur, Anil Kumar

Final Decision : Disposed Of

Judgement

Ranjan Sharma, J

1. Notice. Mr. Anil Kumar, learned Standing Counsel, appears and waives service of notice on behalf of the respondents.
2. With the consent of the parties, the instant writ petition is taken up for disposal, at this stage, in view of the orders intended to be passed herein.
3. The petitioner has assailed the office order dated 03.02.2024 [Annexure P-1], transferring the petitioner, as Senior Assistant, from M&T Circle, HPSEBL, Bilaspur to the office of Chief Engineer [OP] Hamirpur Zone, HPSEBL, Hamirpur, against a vacant post.
4. Admittedly, the petitioner has completed more than normal tenure at the present station, i.e. at M&T Circle, HPSEBL, Bilaspur. The petitioner has assailed the office order dated 03.02.2024 [Annexure P-1], transferring the petitioner from from M&T Circle, HPSEBL, Bilaspur to the office of Chief Engineer [OP] Hamirpur Zone, HPSEBL, Hamirpur, on the ground that son of the petitioner suffers from 75% mental illness as per Annexure P-3 and as per Clause 5.6 of the Transfer Norms, dated 17.09.2015 [Annexure P-2, the State Government has decided to exempt an employee, who has disabled child from routine/rotational

transfer, subject to administrative constraints as far as possible. The provisions of 5.6 of the above norms read as under:-

"Sub-para 5.6: Concession to officials having differently abled dependents:

The Government employee who has disabled child may be exempted from the routine\ exercise of transfer/rotational transfer subject to the administrative constraints, as far as possible.

The word "disabled" includes

- (i) blindness or low vision
- (ii) hearing impairment
- (iii) locomotors disability or Cerebral Palsy
- (iv) mental illness and
- (vii) multiple disabilities."

5. Mr. Pankaj Thakur, learned counsel for the petitioner, submits that in addition to this, the petitioner in Para-7 (H) of the writ petition, the petitioner has submitted that eight posts of Senior Assistants are vacant in Electrical Division HPSEBL, Bilaspur, where, the case of the petitioner could be considered. It is further submitted that Clause 5.6 of the Transfer Policy only permits the transfer of an employee who has disabled child in case there are some administrative constraints or requirements.

6. In the instant case, no such administrative constraints or requirement have either been borne out or conveyed to this Court by the Learned Standing Counsel appearing for the respondents-Board as on day.

7. Per contra, Mr. Anil Kumar, learned Standing Counsel, appearing for the respondents, submits that transfer has been ordered vide office order dated 03.02.2024 [Annexure P-1] just to fill-up the vacancy at Hamirpur. This plea of the Learned Standing Counsel is not tenable for the reason that once the State Government has issued the Transfer Policy which is applicable to the employees of the respondents-Board and Clause 5.6 of Office Memorandum dated 17.09.2015 [Annexure P-2] mandates and exempts an employee who has disabled child from such routine/rotational transfer, which includes the child who suffers from mental illness, as in this case, therefore, the impugned transfer on the face of it is contrary to Clause 5.6 of the Office Memorandum, referred to above. However, he submits that in case the petitioner makes a representation, the same shall be examined/considered in accordance with law.

8. Mr. Pankaj Thakur, learned counsel for the petitioner, further submits that his client shall be satisfied in case the petitioner is permitted to make a representation; with directions to respondent No.2 to consider the same in view of the norms dated 17.09.2015 [Annexure P-2] and also to take into account the existing vacancies at Bilaspur. In addition to this, he further submits that the

petitioner has other hardships also, which is borne out from Annexure P-4.

9. In view of the above facts and circumstances, this Court permits the petitioner to make a representation to respondent No.2-Executive Director [Personnel] of the respondents-Board, within ten days from today; with further directions to the aforesaid respondent to decide the same in accordance with law, after taking into account the provisions of Clause 5.6 of the Transfer Norms and the disability and hardships of the petitioner, sympathetically.

Till the decision of representation, office order dated 0302.2024 [Annexure P-1], transferring the petitioner, from M&T Circle, HPSEBL, Bilaspur to the office of Chief Engineer [OP] Hamirpur Zone, HPSEBL, Hamirpur, shall remain stayed.

In the aforesaid terms, the writ petition as well as the pending miscellaneous application(s), if any, shall also stand disposed of, accordingly.