
(2012) 03 SHI CK 0540
In the High Court Of Himachal Pradesh
Case No : CWP No. 804 of 2012-A

Smt. Rama Sharma

APPELLANT

Vs

State of Himachal Pradesh

RESPONDENT

Date of Decision : 28-03-2012

Acts Referred:

Citation : (2012) 03 SHI CK 0540

Hon'ble Judges : Rajiv Sharma, J

Bench : Single Bench

Advocate : Onkar Jairath, for the Appellant; Rajender Dogra, Additional Advocate General with Mr. Vikas Rathore, D.A.G., for Respondents No. 1 and 2 and Mr. Ashok Chaudhary, Advocate, for the Respondent

Judgement

Justice Rajiv Sharma, Judge

1. Petitioner joined her duties as Superintendent Grade-II in the office of Assistant Registrar, Co-operative Societies, Dehra on 1.7.2009. She is aggrieved by office order dated 13.1.2012, whereby she has been transferred from Dehra to Palampur vice respondent No. 3. Petitioner has to superannuate on 30.6.2013. She has been blessed with twins in the year 2008 and has to look after them. Case of the respondent is that the petitioner remained posted in Una district for the last many years. In the instant case, taking into consideration that the petitioner has to look after her twins coupled with the fact that she has not completed three years, she was required to be permitted to work as Superintendent Grade-II at her present place of posting and complete the normal tenure of 3 to 5 years. The respondent-State has framed policy/guidelines governing the transfer of the employees. It is stipulated therein that an employee who is to retire within a period of two years has to be posted at one of the five stations of his choice. This clause has been incorporated to mitigate the hardships being faced by the persons, who are at the verge of the retirement. It is the prerogative of the employer where the incumbent is to be transferred. However, power to transfer is coupled with the duty to act in judicious and

reasonable manner. The respondents No. 1 and 2 while transferring the petitioner has not taken into consideration the fact that she is going to retire on 30.6.2013 coupled with the fact that she has worked at Dehra only for two years and seven months.

2. Now as far as the posting of the petitioner in District Una is concerned, this fact was well within the knowledge of respondents No. 1 and 2 when she was posted at Dehra. She has only obeyed the orders of transfer issued from time to time, on the basis of which she was posted within Una district.

3. In view of the observations and analysis made hereinabove, since the petitioner has to retire on 30.6.2013 and has to look after her twins, Annexure P-1, dated 13.1.2012 is quashed and set aside. Respondents No. 1 and 2 are directed to permit the petitioner to work as Superintendent Grade-II either at Dehra or in Una district. However, before parting with the judgment, it is made clear that respondent No. 3 be also adjusted on the basis of choice to be given by him by making representation to respondent No. 1 within a period of three weeks from today. The pending application(s), if any shall also stand disposed of. No costs.

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