

(2024) 02 SHI CK 0002

In the High Court Of Himachal Pradesh

Case No : Civil Writ Petition No. 1011 Of 2024

Surjeet Singh

APPELLANT

Vs

State Of Himachal Pradesh And Others

RESPONDENT

Date of Decision : 13-02-2024

Acts Referred:

Citation : (2024) 02 SHI CK 0002

Hon'ble Judges : Ranjan Sharma, J

Bench : Single Bench

Advocate : K.B. Khajuria, Vishal Panwar

Judgement

Ranjan Sharma, J

1. Notice. Mr. Vishal Panwar, learned Additional Advocate General, 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 peculiar facts as borne out from the pleadings.

3. The petitioner, a Principal (School Cadre) has filed, the instant writ petition, with the following prayer:-

"That in view of the facts and circumstances mentioned hereinabove in this writ petition, the writ petition may kindly be allowed and impugned notification dated 24.01.2024 and 03.03.2024 relieving orders contained in Annexure P-1 and P-2 may kindly be quashed and set aside."

4. The petitioner has assailed notification of transfer dated 24.01.2024 (Annexure P-1) transferring the petitioner, Principal (School Cadre) from GSSS Ganger, District Chamba to GSSS Bagthan, District Sirmour and relieving orders dated 03.02.2024 (Annexure P-2) on the grounds that (i) the petitioner has completed only one year and six months at present station; and (ii) petitioner is due for retirement within two years, on 31st July, 2025 and the petitioner is

entitled to be considered for posting at convenient station in view of his retirement, when, this concession has been extended to other employees of the State Government, in view of the judgment, passed by Division Bench of this Court, in CWP No.1863 of 2018, titled as Rattan Chand Versus State of Himachal Pradesh and others, decided on 24.10.2018, wherein, this Court has held that, the State Authorities cannot deprive the Class-I Officers for being considered for posting at convenient stations in view of their retirement within two years, when, the respondents have extended this concession to Class-I and other employees; and (iii) the transfer by ignoring the factum of couple case as his wife is serving as Language Teacher in District Chamba; and (iv) the transfer is not based on any cogent and convincing material revealing public interest and administrative exigencies and is alleged to be based on extraneous consideration.

5. Learned counsel for the petitioner fairly submits that the petitioner has made a representation on 06.02.2024 (Annexure P-3), which is pending adjudication. However, as prayed for, this Court permits the petitioner to make a supplementary representation within three days from today to Principal Secretary (Education), to Government of Himachal Pradesh for ventilating his claims/grievances.

6. Per contra, Mr. Vishal Panwar, learned Additional Advocate General submits that the notification of transfer dated 24.01.2024 (Annexure P-1), has been issued on administrative grounds.

7. Be that as it may, once the petitioner had made representation, on 06.02.2024 (Annexure P-3), highlighting ventilating his grievances, then, the respondents are bound to consider/examine the grievances and pass appropriate orders, in terms of the mandate of law in the case of Shilpi Bose (Mrs.) and others versus State of Bihar and others, 1991 Supp (2) SCC 659 and in the case of State of U.P. and others versus Gobardhan Lal, (2004) 11 SCC 402.

8. In the entirety, of the facts and circumstances, this Court, disposes of the present petition, by directing the respondent No.1 Principal Secretary (Education) to the Government of Himachal Pradesh, to consider/examine the representation dated 06.02.2024 (Annexure P-3), and the supplementary representation to be filed within three days from today; and then, to pass appropriate orders in the matter within a week thereafter, but not later than 22nd February, 2024.

Till the decision of the representation, since the petitioner has already been relieved, thereafter, this Court is not inclined to stay the transfer orders dated 24.01.2024 (Annexure P-1) except than to direct the respondents not to compel the petitioner to join the transferred station GSSS Bagthan, District Sirmour.