
(2012) 07 SHI CK 0094
In the High Court Of Himachal Pradesh
Case No : CWP No. 4596 of 2012-J

Usha Sharma

APPELLANT

Vs

State of Himachal Pradesh and Others

RESPONDENT

Date of Decision : 20-07-2012

Acts Referred:

Citation : (2012) 07 SHI CK 0094

Hon'ble Judges : Sanjay Karol, J;Deepak Gupta, J

Bench : Division Bench

Advocate : Salochna Kaundal, for the Appellant; Vivek Singh Thakur, Addl. A.G. for respondents No. 1 to 4 and Mr. Tek Chand Sharma, Advocate, for the Respondent

Final Decision : Allowed

Judgement

Deepak Gupta, J.—The petitioner, by means of this petition, has challenged the order dated 6.6.2012 Annexure P-2, whereby she has been transferred from CHC, Kotli to CHC Dadasiba. The main ground raised by the petitioner is that she has been transferred after a short span of one year since she was transferred to CHC, Kotli only on 13.6.2011 and now has been sent to CHC, Dadasiba. This Court vide its order dated 15.6.2012 had directed the respondent-State to give the respective stations of both the petitioner and respondent No.5 during their service. According to this affidavit, the petitioner after her initial appointment as Female Health Worker in the year 1984 remained posted in District Kullu till 2000. She was then promoted as Health Educator and posted at PHC, Nagwain, Zonal Hospital, Mandi then at CHC, Kotli, then at CHC, Padhar and again at CHC, Kotli all in District Mandi. Respondent No.5, who is a Male Health Worker and was appointed in the year 1991, remained posted in District Mandi till July, 2009. He was promoted as Health Educator in the year 2009 and transferred to Nagrota Surian and thereafter he remained there for three years. Respondent No.5 on completion of his tenure from Nagrota Surian was transferred to Dadasiba but it appears that he made some request and has now been adjusted at CHC, Kotli

and the petitioner has been transferred to Dadasiba in his place. It is not disputed that the transfer has been cancelled on the request of respondent No.5 and it is submitted that his wife is posted as A.N.M. in Ayurvedic Health Centre Majhwar, District Mandi, whereas the petitioner is serving on a state cadre post. It was also alleged that the petitioner has concealed the fact that respondent No.5 had already joined at Kotli. There is no manner of doubt that the State can consider the cases of couples and can make adjustments even after transfers have been ordered. However, while making adjustments it should be ensured that people who have not served their normal tenure should not be disturbed unless it is essential to do so. Both the petitioner and respondent No.5 have by and large spent their entire service career either in District Mandi or District Kullu which adjoin each other. Respondent No.5 on promotion went to District Kangra when he was posted to Nagrota Surian. He was then transferred to Dadasiba. If he was to be adjusted to keep him closer to his wife, the respondent-State should have ensured that some person who has completed three years or is about to complete three years is disturbed. The petitioner has been in Kotli albeit for the second time only for a period of one year and therefore, she should not have been disturbed at this stage.

2. We therefore, allow the petition and quash the transfer order of the petitioner and direct that she shall be permitted to continue at Kotli. Respondent No.5 should join at Dadasiba but in case after joining he makes a representation to be transferred/adjusted in Mandi District the respondent-State can consider the same in line of what we have stated hereinabove. With these observations, the writ petition is allowed. No costs.