
(2021) 11 SHI CK 0012
In the High Court Of Himachal Pradesh
Case No : Civil Writ Petition No.2799 Of 2021

Yog Raj

APPELLANT

Vs

State Of Himachal Pradesh And Others

RESPONDENT

Date of Decision : 08-11-2021

Acts Referred:

Citation : (2021) 11 SHI CK 0012

Hon'ble Judges : Jyotsna Rewal Dua, J

Bench : Single Bench

Advocate : Tanuj Thakur, Kunal Thakur, Ram Lal Thakur, Sunny Dhatwalia

Final Decision : Dismissed

Judgement

Jyotsna Rewal Dua, J

1. The petitioner, a Junior Basic Teacher, was transferred on 01.03.2021 from Government Primary School Baggi-

II to Government Primary School Banog, District Chamba. The petitioner assailed this order by filing a writ petition bearing CWP No.1407 of 2021. The writ petition was decided by Division Bench of this Court on 06.03.2021 as under:-

"This writ petition is disposed of by permitting the petitioner to file a representation by giving reasons and grounds for recalling the transfer order before the respondents-State/competent Authority within two weeks from today and the respondents-State/competent Authority are directed to examine the same and pass appropriate orders within a week, thereafter. Till then, the impugned transfer order shall remain stayed, if the petitioner has not already joined at the transferred station. 2. Pending application(s), if any, stands disposed of."

2. Subsequent to the above judgment rendered in CWP No. 1407 of 2021, representation of the petitioner was considered by respondent No.2. The petitioner was also given personal hearing on 26.03.2021. His representation

was decided vide order dated 17.04.2021 (Annexure P-3), whereunder, petitioner was adjusted and transferred to GPS Patti, District Chamba. In passing this order, the respondent noticed the facts that (i) the petitioner on 01.03.2021 had been transferred to GPS Banog, where only four students were enrolled, whereas at GPS Patti, there were seventeen students, but without any teacher and (ii) that the petitioner had completed more than twelve years at the present place of posting, i.e. GPS Baggi. Aggrieved by this order of consideration dated 17.04.2021, the petitioner has preferred the instant petition.

3. Learned counsel for the petitioner submitted that the petitioner was transferred from GPS Baggi on the basis of a DO Note to accommodate private respondent No.5. He further submitted that the petitioner subsequent to his regularization, has not completed his normal tenure of three years at GPS Baggi.

Learned counsel further submitted that petitioner till date is serving at GPS Baggi and has not been relieved from there.

Learned Deputy Advocate General during hearing of the case has placed on record instructions dated 08.11.2021 to the effect that on account of COVID-19, transfer order dated 17.04.2021 could not be implemented. He has also placed on record a copy of office order dated 08.11.2021, whereby in compliance to the office order dated 17.04.2021, the petitioner has been ordered to be adjusted at GPS Patti against vacancy.

4. The alleged ground of petitioner having been transferred on the basis of a DO Note to GPS Banog, District Chamba, vide order dated 01.03.2021 has lost its efficacy in view of the judgment dated 06.03.2021 passed by the Division Bench of this Court in CWP No.1407 of 2021, filed by the petitioner against order dated 01.03.2021. In compliance to the judgment, respondent No.2 had passed order dated 17.04.2021, transferring the petitioner to GPS Patti, District Chamba. Admittedly, the petitioner has completed more than twelve years at GPS Baggi, therefore, there is no infirmity in the impugned order dated 17.04.2021, whereunder the petitioner has been transferred to GPS Patti against vacancy keeping in view the interest of students of GPS Patti.

5. Before parting, it may be noticed that though no interim order was passed in this petition for staying the impugned order dated 17.04.2021, transferring the petitioner from GPS Baggi to GPS Patti, yet, the petitioner somehow was allowed to continue at GPS Baggi. Petitioner till date is continuing at GPS Baggi. In this regard, learned Deputy Advocate General has placed on record a copy of communication dated 08.11.2021, addressed by respondent No.3, Deputy Director Elementary Education Chamba to respondent No.2, Director Elementary Education, Himachal Pradesh. As per this communication, respondent No.3 could not implement the office order dated 17.04.2021 till date due to Covid-

19. The explanation accorded by respondent No.3, prima-facie, appears to be lame and offered only to shrug off the responsibility for implementing the transfer order dated 17.04.2021. Accordingly, in the facts and circumstances of

the case, respondent No.2 is directed to look into the matter and take appropriate action against the concerned official.

Consequently, in view of the above discussion, there is no merit in the instant petition and the same is accordingly dismissed. Pending applications, if any, also stand disposed of.