

Himachal Pradesh High Court

Decided On: 14.12.202 vs State Of H.P. & Ors on 14 December, 2020

Bench: Tarlok Singh Chauhan, Sandeep Sharma

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CWP No. 5619 of 2020

Decided on: 14.12.2020

Manjeet Kumar

...Petitione

Versus

State of H.P. & Ors. Responden

Coram:

Hon'ble Mr. Justice Tarlok Singh Chauhan, Judge. Hon'ble Mr.

Justice Sandeep Sharma, Judge.

1 No

Whether approved for reporting?

For the Petitioner :

Mr. Rakesh Kumar Dogra, Advocate.

For the Respondents : Mr. Ashok Sharma, Advocate General

with Mr. Vinod Thakur, Addl. A.G., Ms. Seema
Sharma, Mr. Bhupinder Thakur and Mr. Yudhvir
Singh Thakur,

Dy. A.Gs., for the respondents/State.

Mr. Sanjeev Bhushan, Senior Advocate,

with Mr. Rajesh Kumar, Advocate, for respondent No. 4.

Tarlok Singh Chauhan, Judge (oral)

Aggrieved by the order of transfer, the petitioner has filed the instant petition for the grant of following reliefs:-

A) That the impugned transfer order dated 3.12.2020 (Annexure and corrigendum dated 4.12.2020

(Annexure P-3) may kindly be quashed and set- aside.

Whether reporters of the local papers may be allowed to see the judgment? yes B) That in the alternative respondent may kindly be directed to adjust the petitioner at Govt. Sr. Sec.

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School, Jangal Beri.

2. The only ground on which the transfer has been assailed by the petitioner is that the same has not been passed in administrative exigency or public interest but on the basis of the D.O. note, which is not sustainable in view of the judgment rendered by this Court in Sanjeev Kumar vs. State of H.P. & Ors., Latest HLJ 2013 HP 251.

3. Respondent No.4 has contested the claim of the petitioner by filing reply, wherein, it has specifically been stated that the petitioner has concealed the fact that he himself is the recipient of the D.O.note, while he is on deputation at Government Senior Secondary School, Jangal Beri vide office order dated 11.11.2020 and, is therefore, not entitled to raise the issue of D.O. note, as per the order passed by Coordinate Bench of this Court in CWP No. 4063 of 2019, titled as Smt. Anita Rana & Anr. vs. State of H.P. & Ors.. on 31.12.2019.

We have heard learned counsel for the parties and have gone through the records of the case.

4. This court in Anita Rana's case (supra) has specifically considered the proposition as involved in this case, that a recipient/beneficial of a D.O. note at an earlier occasion, which led to the transfer, cannot approach this Court for ventilating the grievances that he/she has been transferred on the

basis of the D.O. note.

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5. It would be apposite to refer to the relevant observations made by a Coordinate Bench in order dated 31.12.2019, which reads as under:-

"We have heard this matter for some time and also perused the record produced by the office of respondent No. 2. It is seen from the record that on the D.O. Note, the transfer of petitioner No. 1 has been proposed to be cancelled. Meaning thereby that she is also recipient of D.O. Note, hence not justified in ventilating the grievances that she has been transferred on the basis of D.O. note. Therefore, the writ petition qua her deserves to be dismissed and is accordingly dismissed leaving it open to her to make a representation either for cancellation of her transfer or adjustment at some suitable place, if so advised."

6. Similar reiteration of law can be found in the judgments rendered by this Court in CWP No.2040 of 2020, titled Arun Kumar vs. State of H.P. and others, decided on 04.11.2020 and CWP No. 2503 of 2020, titled Aman Walia vs. State of H.P. and others, decided on 05.11.2020.

7. Since the petitioner himself on an earlier occasion was transferred on the basis of the D.O. note, therefore, this petition at his instance complaining of transfer on D.O. note is not at all maintainable.

8. Consequently, we find no merit in this petition and the same is accordingly dismissed, so also pending .

application(s), if any. Parties are left to bear their own costs.

(Tarlok Singh Chauhan) Judge (Sandeep Sharma) 14TH December, 2020. Judge (GR)